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(13803)

MINUTES OF MEETINGS
AND CORRESPONDENCE

RESPECTING THE

EGYPTIAN TREATY
NEGOTIATIONS

MARCH TO JUNE 1930

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Minutes of Meetings and Correspondence respecting the Egyptian Treaty Negotiations, March–June 1930.

[J 908/120/16]

No. 1.

Foreign Office to War Office.

Sir,

Foreign Office, March 28, 1930.

WITH reference to your letter of the 15th instant regarding the privileges and immunities enjoyed by the British forces in Egypt, I am directed by Mr. Secretary Henderson to request you to inform the Army Council that the questions involved have formed the subject of exhaustive discussion at two inter-departmental conferences, and were subsequently further examined by a legal sub-committee appointed for the purpose.

2. A copy of the summary of the conclusions reached by this latter sub-committee in regard to the modifications which it would be desirable to introduce into the draft proposals for an Anglo-Egyptian treaty, should it be found possible to do so in the course of the forthcoming negotiations, is enclosed, and I am to enquire whether the Army Council are in agreement with its terms.

3. A similar letter has been addressed to the Air Ministry, and a copy of the correspondence has been sent to the Admiralty.

I am, &c.

JOHN MURRAY.

Enclosure in No. 1.

Conclusions of Inter-Departmental Conferences and Legal Sub-Committee in regard to the Modifications desirable to be made in the Draft Proposals for an Anglo-Egyptian Treaty in the course of forthcoming Negotiations.

CLAUSES 4, 5, 7.—To be modified in accordance with the modifications introduced into corresponding clauses of the Iraq treaty.

2. Clause 9.—To be modified on the lines of draft agreed by War Office and Air Ministry, attached marked “A,” so as to include access to and freedom of movement over training and manœuvring areas, and, if so requested by the Egyptian delegation, to qualify the geographical definition of the area in which the forces are to be located by the words “in the neighbourhood of the Canal.” The words “localities to be agreed upon” to be modified in accordance with first sentence of paragraph 3 below.

3. Army Note.—(i) The localities in which the forces will be quartered should be selected by a War Office and Air Force commission, to report within a fixed period, after which design and specification will be prepared by a joint Anglo-Egyptian commission. The note to be modified accordingly.

The term “equivalent accommodation” is equivocal and should be replaced by a formula referring to “lands and modern permanent accommodation facilities and amenities according to standards generally recognised as satisfactory to His Majesty’s Government.”

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The War Office submit for consideration draft, attached marked "B," amplification of the last sentence relative to amenities.

4. *Army Note.*—(ii) To be modified on the lines of draft submitted by War Office, attached marked "D," so as to ensure the maintenance in the altered conditions after transfer of the forces to the Canal area of privileges and immunities equivalent to those at present enjoyed.

General exemption from taxation to be specified.

The term "forces" to be replaced here and wherever else appropriate in the proposals by the term "British armed forces," so as to include the navy.

The inclusion of British civilian officials of the forces within the category of members of the forces enjoying privileges and immunities to be considered. (*Quære* whether this cannot more easily be secured after signature of a treaty.)

The Egyptian Government to be asked to include an undertaking to introduce legislation making it a penal offence to interfere with the British forces, *e.g.*, by seducing members of the forces from their allegiance, spreading disaffection, harbouring deserters, &c. (*Quære* whether this can be met by introduction of the Percival Penal Code.)

5. *Army Note, final paragraph* To be modified on the lines of draft submitted by Air Ministry, attached marked "C," so as to (a) secure the maintenance and availability at all times of such aerodromes and landing grounds in Egyptian territory as are required for the passage of British aircraft, personnel and stores to and from the aerodromes placed at their disposal, and (b) limit the facilities offered to Egyptian military aircraft to "reciprocal facilities."

The War Office ask for inclusion of an additional sentence to safeguard *their* means of access and communications in time of peace.

6. *Capitulations Note.*—The sentence "I anticipate agreement that the Mixed Tribunals should exercise jurisdiction in these matters in cases where British subjects are concerned" to be omitted.

It is understood that nothing contained in clause 11 or the Capitulations note could found a claim by the Egyptian Government for the transfer to the Mixed Tribunals of criminal jurisdiction, or, except at the discretion of the High Commissioner, of civil jurisdiction, over the British forces if and when a detailed agreement is being made for the transfer of consular jurisdiction in general.

Draft "A."

The British forces will be stationed in the neighbourhood of the Suez Canal to the east of longitude 32° east in localities to be selected by the commission referred to in They will enjoy full liberty of access for training purposes to and freedom to manoeuvre over the desert east of the Suez Canal and north and south of the Ismailia Canal to the east of Abbasa station.

Draft "B."

Having regard to the character of the region lying to the east of longitude 32° east, steps will be taken to furnish reasonable amenities by planting trees, gardens, &c., for the troops, who will also be provided with an adequate emergency fresh water supply, *and with such recreational and other facilities and amenities as will ensure that the health and well-being of the troops will in no way be altered for the worse by the transfer from their present locations to the Canal Zone.*

Draft "C."

It is also agreed that the Egyptian Government will give all necessary facilities to British aircraft, personnel and stores on passage to and from the aerodromes placed at the disposal of the British forces in accordance with paragraph 9 of the proposals, and will secure the maintenance and availability at all times of such aerodromes and landing grounds in Egyptian territory as are required for that purpose. His Majesty's Government will give reciprocal facilities to Egyptian military aircraft, personnel and stores on passage to and from Egyptian aerodromes.

Draft "D."

Subject to any modifications which may in the future be made by agreement between the two Governments, the privileges and immunities in jurisdictional and fiscal matters at present enjoyed by the British forces in Egypt will continue, *together with such additional privileges and immunities as may be rendered necessary by the transfer of the British forces to the Canal Zone*

[J 1026/4/16]

No. 2.

Record of Proceedings at First Meeting with the Egyptian Delegation on March 31, 1930

THE following were present:—

Egyptian Delegation.

Nahas Pasha.
Wacyf Ghali Pasha.
Osman Moharrem Pasha.
Makram Ebeid Bey.
Mustapha Sadek Bey.
Kamel Selim Bey.

British Delegation.

Mr. Henderson.
Lord Thompson.
Mr. Shaw.
Sir R. Vansittart.
Sir P. Loraine.
Mr. Dalton.
Mr. Selby.
Mr. Murray.
Mr. Campbell.
Mr. Mack.

Mr. Henderson.—There are one or two points of procedure which we ought to settle. Shall we fix definite hours for our meetings or shall we settle after each meeting when the next one should take place?

Nahas Pasha said he would prefer the latter course.

Mr. Henderson then asked whether verbatim notes of the proceedings should be taken or whether each side should make their own record independently.

Nahas Pasha said that he would prefer the latter alternative.

Mr. Henderson said that he understood that to-day *Nahas Pasha* wished to have only a general discussion. So far as the British delegation were concerned, they would be delighted to hear what *Nahas Pasha* had got to say. The British proposals, as he had already said, had been before both the Egyptian and British peoples for seven months. Those proposals naturally remained the position of His Majesty's Government, and he was anxious to hear what *Nahas Pasha* had got to say about them both in principle and in detail. When it came to discussing details, he would probably have to refer various points to some of his Cabinet colleagues and eventually to experts. It would now be helpful if *Nahas Pasha* would open the committee proceedings by telling them what he had to say about these proposals.

Nahas Pasha said that, before he began to discuss the proposals, he must say how happy he was to have these negotiations with *Mr. Henderson* and his colleagues for a definite settlement of the relations between the two countries. He must note that both sides absolutely intended to come to a definite understanding this time. It was very important that the various obstacles that might appear should be overcome, thanks to the goodwill of both sides, and he relied on the goodwill of *Mr. Henderson* and his colleagues to help them and to reconcile Egypt's rights and England's interests and to remove all misunderstanding and ambiguity for the future, and help in the fulfilment and execution of the treaty in the sincerest manner and in such a way as to assist them to honour their signature. In this spirit he was going to explain the situation in a general way, and he was sure that it would be felt that his views were not far from the spirit which animated the British proposals. For the moment he would confine himself to principles, leaving details for a later

time. The principles to be deduced from the British proposals might be summarised as follows:—

1. The termination of the British occupation. This there was no need to discuss any longer, as naturally he had no objection to raise against this principle.

2. The alliance: They accept the principle of having an alliance with Great Britain. So far as the defence of the Suez Canal was concerned, there were already two guarantees, namely, a general one provided by the international agreement of 1888, and a particular one arising from the alliance itself, under which England would come to the help of Egypt against any foreign aggression. None the less, in spite of these two guarantees, Egypt was ready to prove her goodwill by allowing Great Britain to assist her in defending the Canal, and for this purpose would allow Great Britain to maintain a military post (Nahas Pasha was careful to use the singular) near the Canal until the time had come when Egypt had proved herself fit to hold it until British reinforcements could arrive. As for the localities where the British troops would be stationed, this was a detail which could be left for future discussion.

3. The third principle was the protection of foreigners. This was, of course, the right of Egypt which was only restricted by the Capitulations. The Capitulations were destined to pass away, but for some time and until they had passed away Egypt accepted the existence of the competency of the Mixed Courts as proposed, subject to modifications which would have to be discussed. So far as the police were concerned, they accepted the retention of some British police in the four towns of Cairo, Alexandria, Port Said and Suez for a certain number of years, provided they were replaced annually and gradually by Egyptian officials. There would be no abrupt ending.

4. The next principle was the Sudan. Until this question was settled by a definite agreement agreed to in the future, they accepted that the administration should be carried on jointly and effectively. Makram Bey at this point made it clear that he contemplated that definite provision for such future agreement would be made in the treaty.

It was to be deduced from the acceptance of these four general principles that the attitude of the Egyptian delegation was not far from the spirit of the proposals, and the way in which he had summarised them showed that the British and Egyptian standpoints were very near each other. The points which remained were details which might be discussed later.

Mr. Henderson enquired was he to understand, in view of what his Excellency had said on these four main principles, that if we could express the position in articles mutually satisfactory, there would not be much difficulty about agreement on other points.

Nahas Pasha said that, having seen the goodwill of the Egyptian delegation on these important points, *Mr. Henderson* might take it for granted that the same goodwill existed on other points of detail.

Mr. Henderson said that it was admitted that *Nahas Pasha* had stated four general principles, but much depended on the way they were set out in the articles of a treaty, and it might be necessary for him to ask his committee to examine the wording of the articles, but he would like to know whether *Nahas Pasha* had any formulæ ready. His Excellency's statement was so general that without further elucidation it would be impossible to put a definite construction on what he had said. He asked, therefore, whether he might have fuller statements, or, failing that, formulæ showing what was in his Excellency's mind.

Nahas Pasha said that he had nothing prepared, but he could prepare formulæ and send them to *Mr. Henderson* the next day, or Wednesday.

Mr. Henderson said that this would be helpful to his colleagues and himself, and he would be glad to study them, as they were very important, indeed, from the British point of view.

Nahas Pasha promised to get them ready and send them over.

Mr. Henderson enquired whether his colleagues would like to ask any questions.

Mr. Shaw said that he would like to see the formulæ. They were very vital and went to the heart of the proposals.

Mr. Henderson said that the Egyptian delegation would want time to prepare them. When did they think they would have them ready?

Nahas Pasha said that he would do his best to send them to-morrow.

Mr. Henderson said that this suggested that we should come together again on Wednesday or Thursday.

Nahas Pasha said that, owing to the medical régime which the doctors had imposed on him, he could not attend a meeting in the early afternoon. He would be happy to come any time in the morning or the late afternoon.

Mr. Henderson then suggested that the next meeting should take place at 10.30 on Thursday morning, and enquired whether the Egyptian delegation had enough work to get on with until then. *Nahas Pasha* had begun by informing them of two or three points on which they were agreed. Firstly, the termination of the occupation, and, secondly, the question of the alliance. These were now questions of drafting. The Egyptian delegation had the British formulæ already. There was also the clause concerning the League of Nations. If the Egyptian delegation could also bring along their draft on the first three articles it would probably be found that there was a measure of agreement on these points, and they could be dealt with also at the meeting on Thursday morning.

Nahas Pasha said that he was prepared to deal with the modalities of the alliance even now.

Mr. Henderson said he would like to hear what he had to say.

Nahas Pasha said that, so far as the alliance was concerned, they would like the assistance which each party was to render to the other to be in proportion to their respective strengths. Egypt should help England on her own territory only; this principle had been admitted in all previous negotiations; Egypt required her forces to be in Egypt to protect the country and the Canal.

Mr. Henderson remarked that this, if accepted, would involve a change in article 7. He then read articles 1 and 2 of the proposals, and enquired whether the Egyptian delegation had any changes to suggest.

Makram Ebeid said that if the Egyptian delegation desired any change it would be only one of words and they would bring the formulæ on Thursday. In reply to a further question from *Mr. Henderson*, *Makram Ebeid* admitted that article 3 also only required a change of form.

Mr. Henderson said that the views of the Egyptian delegation on these articles should provide good material for the next meeting. He added that proceedings had begun in such a splendid spirit of conciliation and determination to reach agreement that if this spirit were continued there would be no doubt about the result.

It was decided, at the request of the Egyptian delegation, that no communiqué should be issued to the press to-day, and that it would be considered after each meeting whether a communiqué should be issued. For the moment the press would be informed only that the committee would meet again on Thursday morning.

Foreign Office, March 31, 1930.

[J 1070/4/16]

No. 3.

Record of Conversation between Makram Ebeid and Mr. Campbell.

I VISITED *Makram Ebeid* to-day at his request and with the knowledge of the Secretary of State. The object of *Makram Ebeid*'s invitation was to hear from me some personal account of the general impression created by *Nahas Pasha*'s statement at the committee meeting yesterday. *Mr. Henderson* had previously explained to me the kind of line which he wished me to take in the conversation. I told *Makram* that it was thought that *Nahas Pasha*'s statement of the principles upon which he was prepared to negotiate afforded a negotiable basis for the British point of view, although very much would depend upon the actual wording of

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the formulæ which were going to be sent by the Egyptians to the Secretary of State. I was, however, very much afraid that the principle enunciated in regard to the Sudan had caused serious misgiving and uneasiness as to whether it did not go beyond the limits of the present proposals and beyond anything which Mr. Henderson would consider negotiable.

Makram appeared to be taken aback and expressed his astonishment that their attitude towards the Sudan, which they considered to be the crowning proof of their goodwill and moderation, could possibly be represented as almost outside discussion.

I said it would be helpful and might avoid misunderstanding if he could tell me more precisely what they had in mind by the use of the term "joint and effective administration."

He replied that this meant that Egyptian civil officials should be introduced into the Sudan administration in such posts and in such numbers as to give that administration a true Anglo-Egyptian character.

I enquired whether this was not an extravagant claim to put forward at the present time and in view of the state of British public opinion in regard to the Sudan, and suggested that they were showing some lack of appreciation of the parliamentary and other difficulties which confronted Mr. Henderson as the Secretary of State in a minority Government.

Makram replied that the moderation of their claim in regard to the Sudan was largely due to their appreciation of the position and difficulties of Mr. Henderson and the Cabinet. He declared that Mahmoud Pasha had already secured in his proposals the return of the Egyptian civil officials to the Sudan, and that all the Wafd were now asking for was that the numbers and posts of those officials should be such as to make the Egyptians' share in the joint administration a real and effective one.

I told him that he must be aware that Mahmoud Pasha had in fact obtained no such concession.

He expressed himself as amazed and said that if that were so, then the Egyptian delegation had been allowed by the Labour Government to come to England under false pretences. He said that the relevant clause in the proposals appeared to him to be capable of no other meaning than that the officials would return to the Sudan, that this meaning had been attributed to it by every Egyptian, that this concession had been claimed by Mahmoud Pasha in his Green Book, the accuracy of which Mr. Henderson had said in the House of Commons there was no occasion to contradict, and the attacks which had been made in the English press on the proposals were all based on the assumption that some change in the Sudan was being made. He would find it very difficult to believe that the clause had been intended as mere eye-wash or a piece of trickery, as Mahmoud Pasha must have known that his life would have been in danger immediately the Egyptian public had discovered that the clause had no meaning. He declared that the Sudan was infinitely the most important part of any treaty, and that it was the one point in regard to which the Egyptian public definitely expected and required them to bring back some concession. If they were so foolish and so treacherous as to sign a treaty which not merely obtained nothing further in regard to the Sudan than what Mahmoud Pasha was universally believed to have obtained, but actually went back on that and confirmed by agreement a state of affairs in the Sudan against which the whole of Egypt protested and for which Egyptian blood had been shed, not only would there be no chance of implementing the treaty, but their lives would almost certainly be forfeited. He said that the Egyptian nationalist view of the position in the Sudan was quite clear and had never been modified; the Sudan was a rebellious province of Egypt, which had been reconquered by the Egyptian troops with such assistance from British troops as the British Government would have rendered in similar conditions to any other foreign Power in whom they were interested; on the reconquest of the Sudan the British Government had taken advantage of their strength and Egypt's weakness to impose upon Egypt an unequal and unfair agreement, namely, the 1899 convention; that convention had never been accepted by any patriotic Egyptian, and Boutros Ghali, who signed it, had in due course been murdered. Makram pointed out that the position in the Sudan prior to 1924 was precisely one of the points reserved in the declaration of 1922 for subsequent settlement by agreement. He could not understand how the Labour Government could propose to them in 1930 the confirmation by mutual agreement of the state of affairs which had been given them without their request or consent by a unilateral declaration in 1922. The Wafd had believed that, in view of the nationalist standpoint in regard

to the Sudan, which he had already explained, they were giving evidence of great moderation and statesmanship in offering to acknowledge the convention of 1899 in return merely for an effective share in the administration. Moreover, they were asking now for less than had been actually offered to them by the Labour party in 1924. He told me that in 1924 negotiations were proceeding between Zaghlul Pasha and the Labour party through the intermediary of Mr. Ben Spoor and himself. Mr. Spoor had suggested a settlement on the basis of a recognition of the 1899 Convention in return for an effective share in a joint administration, but had agreed that the Wafd could not be asked to accept this as a final settlement, and, therefore, a period of twenty-five years should be fixed, after which the question would be reopened. Zaghlul Pasha had considered this offer very carefully and had replied that he could not entertain it. Mr. Spoor had then suggested that, in view of the great concession which recognition of the 1899 Convention by the Wafd would represent, the British troops should be entirely removed from Egyptian territory to Palestine, and that the period of the agreement in regard to the Sudan should be limited to ten or fifteen years. Zaghlul Pasha had further considered this and had decided that Egyptian opinion was running so high in regard to the Sudan that it would be too dangerous to attempt an agreement on the lines suggested. Now the Wafd had come to London six years later and had asked for something a good deal less than they had been offered in 1924, as they were prepared to accept the period of twenty-five years for the provisional agreement in regard to the Sudan and the accommodation of British troops in the vicinity of the Canal. He repeated that it seemed to him as if the delegation had been brought to England under false pretences. I said that I ought to remind him that every possible attempt had been made in Cairo to induce Nahas Pasha to give some indication before his departure of the kind of modifications which he would wish to have made in the proposals, and that I myself, at a far earlier stage, had suggested to himself, Makram, that it was most important that the Wafd should seek some opportunity of having the exact meaning of the present proposals explained to them.

I told Makram again that it looked to me as if we should soon be up against something in the nature of a stone wall, and would beg him, before heads came to be knocked against it, to explore on his side, as no doubt would be done on the other, every possibility of getting round the wall.

Makram said that there was no possibility of any compromise on the part of the Wafd.

I said that there were very few things in the world which admitted of no kind of compromise if dealt with by practical statesmen animated by a genuine spirit of goodwill. It was not for me to suggest to the Wafd the kind of line which they might take, but in my anxiety to avoid anything in the nature of a collision between the two sides, I would like to know whether he had considered, for example, such expedients as the omission from the treaty of any reference to the Sudan, or the acceptance of a clause allowing a limited number of Egyptian officials to return to the Sudan, or the submission of the issue to arbitration. I repeated that I had no indication from any source that any of these solutions would be acceptable to Mr. Henderson, and was merely suggesting some of the lines which it seemed to me the Wafd should explore before committing themselves to a definite *non possumus* attitude.

Makram said that the omission of any reference to the Sudan was impossible because it was one of the points, and perhaps the most important point, which they had come to London to settle, and, moreover, such omission would be regarded as a surrender of something which Mahmoud Pasha was already believed to have obtained. As regards the return of a certain number of Egyptian officials, although this, in the light of what I had told him that day, might in reality be an advance on what Mahmoud had obtained, it would be no advance on what Egyptian public opinion believed him to have obtained, and, in any case, could not possibly be represented as a settlement or solution of any kind; on the contrary, it would merely open the door to immediate intrigue of every kind as regards the Sudan. Nahas Pasha had told Mr. Henderson at the committee meeting that if they signed a treaty they intended to honour their signature in the fullest sense, but this necessarily implied that the treaty was of an honourable nature. As regards the submission of the issue to arbitration, he thought this was utterly out of the question at the present time; it would presumably mean reference to the League of Nations, and however valuable the League of Nations might be to Egypt after Egypt had become a member and had had time to establish herself there and made friends, the position to-day

would merely be that poor Egypt was dragged to the League by England, who would have arranged everything in her own favour in advance. France would have been promised a concession here, Italy a concession there, and, in return, the Sudan would be taken from Egypt and given to England.

I asked Makram whether he had studied the convention of 1899 and whether he clearly distinguished in his mind between questions of sovereignty, international status, and administration.

He replied that neither he nor anyone else in Egypt believed that England would ever go to the length of annexing the Sudan, and that therefore the question of sovereignty and international status was quite sufficiently safeguarded; it was the question of administration which was vital, because the Sudan was being exploited in the interests of the British administration and gradually being detached from all contact with Egypt; England had not only imposed the unfair Convention of 1899, but had then proceeded to take advantage of her predominant position to whittle down Egyptian influence in the Sudan and gradually remove one Egyptian official after another; at the date of the convention there was an Egyptian Sub-Governor-General, Egyptian Members of Council and Egyptian mudirs; all had been eliminated; the climax had been reached when England had seized upon the murder of the Sirdar as a pretext for eliminating the last Egyptian officials and the Egyptian troops; but every fair-minded person must now recognise and admit that the murder of the Sirdar had been carried out by the enemies of the Wafd and had been inspired by the same minds as the attempt on Zaghlul Pasha himself, the time had therefore come when reparation should be made for the reproaches directed and the measures taken against Zaghlul Pasha and his Government; it would be outrageous to endeavour to extort now from the Wafd their agreement to the oppressive steps which had been taken.

I asked Makram whether, assuming that their proposal and formula in regard to the administration of the Sudan had been acceptable, the settlement would have been a final one.

He said obviously no, because the Sudan was historically a province of Egypt and must one day return to its normal position as an ordinary Egyptian province; therefore, it would be necessary for the Wafd to insert words in their formula making it clear that the arrangements now being made were merely a provisional agreement until such time as the whole question could be reopened. This would not mean, however, that they were envisaging any early reopening of the question because they fully realised that there might be no change in the position for a great many years to come, and, indeed, that no one could foresee the future or what unexpected changes in this or that direction might not come about. He asked me whether the British Government did not realise by now that the satisfactory administration of the Sudan without the co-operation of Egypt was almost impossible; and before very long, and perhaps a great deal sooner than was quite understood in England, nationalist ideas among the Sudanese themselves would take definite shape. The presence in the Sudan of Egyptian troops and Egyptian officials professing the same religion and speaking the same language as the inhabitants of the country was a great asset in steadying the people and enabling them to feel that their co-religionists were watching their interests and had an effective share in the formation of their destinies; as soon as the officials were removed, the whole weight of Mahometan feeling and suspicions as against the Christian Powers began to operate against England.

I remarked that I had not come to argue with Makram about the merits of the question or any particular aspect of it, but merely as an honest broker to tell him of the difficulties that the Wafd looked to me to be up against, and to help in explaining quite clearly to each side exactly what was in the minds of the other, but that the generality of his statements in regard to conditions in the Sudan obviously, I thought, required qualification in certain directions. He agreed.

I asked whether, from the Egyptian point of view, there would be any use in proceeding with negotiations on the purely Anglo-Egyptian aspects of the treaty, as to which no insuperable difficulty appeared to present itself, while leaving to the end any combined attempt to build a bridge over the Sudan gulf.

Makram said that he did not think it would be possible to detach the Sudan from the rest of the treaty for purposes of discussion because the Wafd had taken the treaty as a whole, and their conciliatory attitude in regard to such matters as the retention of British troops in the vicinity of the Canal was solely due to their desire to achieve a general settlement, including the Sudan; if they had to discuss with the knowledge that their demands in regard to the Sudan were unlikely to be met

favourably, they would have to revise their whole attitude in regard to other aspects of the treaty, and especially in regard to the question of the British troops.

I suggested that it would be most undesirable that Nahas Pasha should appear at the committee meeting on Thursday and put down on the table a formula which, *ex hypothesi*, Mr. Henderson might consider definitely unnegotiable, as a full committee meeting did not seem to me a very suitable occasion on which to arrive at a sudden deadlock. It might, therefore, be essential for Nahas Pasha to see Mr. Henderson privately before the time fixed for the meeting.

Makram agreed that Nahas Pasha ought to see Mr. Henderson, but said that he had great uneasiness as to the result of such an interview because he was certain that Nahas Pasha would be even more adamant in regard to the Sudan than he, Makram.

I ended the conversation by telling Makram that I would report as fully as possible what he had said to Mr. Henderson in exactly the same way as I had given him, Makram, as full and frank an account as possible of what I understood to be the views on the British side.

Makram said he was greatly obliged to me, and that there was nothing to be gained by concealing from either side the nature and intensity of the feelings of the other in regard to the Sudan or any other aspect of the treaty.

I urged him to think over the whole position again, and to reflect what a bitter disappointment and what a miserable business it would be if negotiations came to an *impasse*.

Makram said no one would regret such a result more than himself, but principles were greater than men and would remain after the men had gone; nationalist and democratic ideas and ideals were still gaining ground in the world, and there would be, he was sure, a Government in England in ten or fifteen years' time which, whatever its party title might be, would look upon the views of the Labour Government of to-day in regard to the Sudan as obsolete and reactionary

CECIL CAMPBELL.

Foreign Office, April 1, 1930.

[J 1069/4/16]

No. 4.

War Office to Foreign Office.—(Received April 2.)

Sir,

War Office, April 2, 1930.

I AM commanded by the Army Council to acknowledge the receipt of your letter, dated the 28th March, 1930, on the subject of various questions which have arisen in the course of discussions on the subject of the current Anglo-Egyptian Treaty negotiations.

2. In reply, I am to state, for the information of Mr. Secretary Henderson, that the Army Council beg to offer the following observations on the summary of conclusions attached to your letter under reply.

Paragraph 4, Clauses 4, 5 and 7

The Army Council, while offering no observations on the clauses 4, 5 and the first sentence of clause 7, assume that the second sentence of clause 7 will be retained intact.

Paragraph 2, Clause 9.

The Army Council suggest for consideration that from a drafting point of view the following alternative might be preferable in the second sentence of draft "A":—

"They will enjoy full liberty of access for training purposes to, and freedom to manoeuvre over, the desert east of a north and south line through Abbasa Station."

Paragraph 4, Army Note (ii).

As the Army Council understand that British civilian officials and subordinates already enjoy the same privileges and immunities as are enjoyed by the British armed forces, they consider that the interests of these civilians as well as the families of all ranks and their servants should be safeguarded in the treaty equally with those of service personnel.

Paragraph 5, Army Note, Final Paragraph.

The Army Council submit for consideration the following paragraph on the lines of a paragraph in the draft Anglo-Iraq Treaty, so as to ensure all necessary facilities for communications in time of peace:—

“The Egyptian Government agree to provide every facility for the movement of His Britannic Majesty's armed forces, and for the carriage and storage of fuel, supplies and stores for such forces, on the roads, railways and waterways, and in the ports of Egypt, and to accord to these forces the same facilities for the use of W/T as they at present enjoy.”

3. The Army Council observe that Mr. Secretary Henderson refers to “the modifications which it would be desirable to introduce into the draft treaty proposals for an Anglo-Egyptian Treaty, should it be found possible to do so.” They consider that the safeguards mentioned are absolutely essential for the security and well-being of the troops in Egypt, and would strongly urge that any attempt on the part of the Egyptian delegation to reduce these safeguards should be resisted.

4. Subject to the amendments and additions proposed by them, the Army Council are in general agreement as to the terms of the summary of conclusions.

5. With regard to the minutes of an inter-departmental conference held at the Foreign Office on the 10th March, the Army Council note that, after their representatives had withdrawn, the possibility of the Egyptian Government stationing their troops on the Canal was discussed. They recognise that there might be some difficulty in getting a provision inserted in the treaty preventing such a contingency, but they are of opinion that the presence of Egyptian troops would be definitely undesirable and should be avoided if possible.

6. A copy of this letter has been sent to the Air Ministry and to the Admiralty.

I am, &c.
H. J. CREEDY.

J 1067/4/16

No. 5.

Mr. A. Henderson to Mr. Hoare (Cairo).

(No. 339.)

Sir,

Foreign Office, April 2, 1930.

THE Egyptian delegation, headed by Mustapha Nahas Pasha, arrived in London on the 26th March. They were welcomed at Victoria Station by me on behalf of His Majesty's Government, Sir Percy Loraine, the Prime Minister's principal private secretary, and by members of this Department.

2. His Majesty the King received the four Egyptian delegates, Mustapha Nahas Pasha, Wacyf Ghali Pasha, Osman Moharrem Pasha and Makram Ebeid Bey, at Buckingham Palace on Friday, the 28th March.

3. Proceedings were opened on the 31st March at a public session in the Foreign Office, at which I delivered an address of welcome, a French translation of which was subsequently read by Sir P. Loraine. Nahas Pasha replied in French, and an English translation of his speech was read by Makram Ebeid Bey. Copies of the speeches delivered are annexed.

4. A private meeting was subsequently held in my room, and the record of what took place will be sent to you in a subsequent despatch.

I am, &c.
ARTHUR HENDERSON.

Enclosure 1 in No. 5.

Speech by Mr. Henderson at the Opening of the Anglo-Egyptian Conference on March 31, 1930.

IT is with especial pleasure that, on behalf of His Majesty's Government and of my colleagues who are immediately associated with me, it falls to my lot to welcome the distinguished delegation over which you, Sir, have the honour to preside.

I regard the occasion as one of especial significance in the relations of our two countries.

The welcome which has been extended to you on your arrival here is sufficient testimony of the importance which the people of this country attach to their relations with Egypt.

Perhaps it is not out of place to record that to some of you at least the land of England is not a strange land.

Some of you have visited London before, and one at least has thought so highly of our cultural opportunities that he has graced with his presence during some years a famous Oxford college.

I refer to my friend the Egyptian Minister of Finance—Makram Ebeid.

In meditating upon these facts, I cannot but bear in mind that you have before you a good example in the person of your august Sovereign, King Fuad of Egypt.

He has paid us the honour of two visits in recent years and won our respectful sympathy.

We appreciate this tribute to the amenities of our home land.

Well, gentlemen, we are proud of our country.

We are pleased to think that in the course of the more serious work on which you will be engaged you will at least have some opportunity of seeing it at its best.

You are to make, I understand, a visit to the ancestral home of our Royal House at Windsor.

You will be received at our two oldest universities.

I could wish that your programme might include a visit to Scotland.

But the work we have in hand may, I fear, render impossible so long a journey.

What is that work?

We are now come together here to achieve a great purpose.

Firstly, to bring a contribution, and an important one, to strengthen the great organisation which is being built up by the nations to establish peace between the peoples of the world.

I refer to the League of Nations.

Secondly, to seal by a treaty a friendship between two peoples whose interests are in so many respects identical.

I will not refer to past failures to achieve the object we have in view.

They are within the recollection of all of us, and I think we can all agree as to the unfortunate consequences of those failures.

They simply had the effect of retarding that accommodation which sentiment, reason and mutual interest all dictated as so essential for the welfare of the two peoples.

I refuse to contemplate the possibility of failure on this occasion.

I believe that that is the mood in which the Prime Minister of Egypt and his colleagues have come to discuss with us the position.

For the purpose which we have in view, we have made known the position of His Majesty's Government.

In August last His Majesty's Government made to the Egyptian people an offer inspired by feelings of the most friendly and most conciliatory nature.

That offer has been before the Egyptian people and the people of this country for the past seven months.

His Majesty's Government have been much gratified to observe that the spirit of friendship and goodwill which prompted the offer has been unquestioned and has been reciprocated in Egypt.

In particular have they noted the friendly declarations of the Prime Minister of Egypt.

Parliamentary elections have been held.

The party of which you, Sir, are the leader has been returned to power as a result of those elections, and we welcome you as the representative of the great majority of the Egyptian people.

You have demanded in the name of your Government, from the Egyptian Parliament, and have received, a mandate to come to London and undertake discussions with us on our proposals.

Those discussions receive their public and official send-off in our present surroundings, which, I would remind you, but a few years ago saw the signature of the Locarno treaties.

In the result of our labours I look forward to seeing the relations of Great Britain and Egypt secured on a basis of permanent friendship and alliance.

Further, that Egypt should be enabled to play as a free and independent sovereign State the part in the comity of nations which befits her ancient greatness and her modern progress.

Your Excellency, Nahas Pasha, your Excellencies, I extend to you a warm greeting on behalf of His Majesty's Government.

I have the confident hope that our collaboration will be crowned with the success which the subject from its importance and far-reaching possibilities demands.

Enclosure 2 in No. 5.

Speech by the Egyptian Prime Minister at the Opening of the Anglo-Egyptian Conference on March 31, 1930.

AU nom de mes collègues et au mien, je remercie votre Excellence pour les paroles de bienvenue qu'elle a bien voulu nous adresser. La cordialité de l'accueil qui nous a été réservé nous a beaucoup touchés et les nombreux témoignages de sympathie qui nous sont prodigués soulignent et rehaussent cette volonté de compréhension et de conciliation qui a inspiré les propositions du Gouvernement britannique et à laquelle il m'est agréable de rendre ici un public hommage. L'Egypte, ainsi que l'a constaté votre Excellence, a répondu aux dispositions conciliantes du Gouvernement de Sa Majesté britannique par un égal bon vouloir. Profondément attachée à ses libertés constitutionnelles, elle a tenu à proclamer, par la voix de ses représentants autorisés, sa ferme résolution d'arriver à une entente loyale avec la Grande-Bretagne. Voilà pourquoi nous nous trouvons ici.

Nous sommes venus en effet, délégués par le peuple d'Egypte, pour discuter les propositions qui lui ont été faites, rapprocher et accorder les points de vue en présence, fermer les issues à l'équivoque et aux malentendus, asseoir les relations des deux pays sur l'amitié et la confiance, seuls fondements pour un accord honorable, solide et durable. Nous sommes persuadés que nous réussirons dans notre tâche et que nous aboutirons à un accord qui satisfasse les deux peuples. A votre bonne volonté et à la nôtre également évidentes est venu s'ajouter un nouvel élément de succès : et c'est d'avoir fait la connaissance de votre Excellence et d'entretenir avec elle les rapports personnels les plus agréables et les plus sûrs.

Les échecs des négociations précédentes ne nous ont pas découragés. Le désir manifesté à plusieurs reprises par les deux peuples de s'entendre témoigne hautement de la nécessité d'une telle entente qu'imposent à la fois la raison, le sentiment et l'intérêt.

Qu'il me soit maintenant permis de dire notre reconnaissance pour le grand honneur que nous avons eu d'être reçus par Sa Majesté le Roi, qui, avec une bienveillance dont nous ne dirons jamais assez le charme, a daigné s'intéresser à nous et au succès de notre commune mission.

Que votre Excellence me permette également de lui exprimer notre reconnaissance pour l'hommage rendu à la personne de notre auguste Souverain. L'Egypte entière a été touchée par les manifestations de respect et de sympathie dont le peuple anglais et son Gouvernement ont entouré le Roi Fouad à chacune de ses visites dans votre beau pays. Sa Majesté a goûté et grandement apprécié la grâce de la terre anglaise et l'intelligence et l'activité de son peuple.

Du reste, l'Angleterre est loin d'être inconnue à la plupart d'entre nous. Nous avons déjà éprouvé le charme aimable et paisible de vos campagnes et nous avons été sensibles à l'éloquence de vos monuments, de votre passé et de vos traditions.

La visite que nous ferons au château de Windsor nous permettra de saluer l'un des berceaux de votre illustre Famille royale et celle que nous rendrons à deux de vos plus vénérables universités s'inscriront parmi nos meilleurs souvenirs. Comme votre Excellence vient de le rappeler, l'un de mes collègues a si justement apprécié l'importance de la culture traditionnelle de ce pays qu'il a tenu à couronner ses

études par un long séjour dans votre illustre université d'Oxford. Cet exemple suivi par beaucoup de nos jeunes gens constitue une excellente préface à l'entente et à l'amitié par le rapprochement intellectuel.

C'est cette amitié et cette entente que nos discussions, publiquement et officiellement inaugurées dans la même salle qui a vu, il y a quelques années, la signature du Traité de Locarno, vont, j'en ai la pleine confiance, consacrer définitivement.

La mère de toute civilisation se dresse aujourd'hui dans la fierté de sa jeunesse, parée de la splendeur de son passé, et elle réclame sa part dans le travail commun, paisible et fécond de peuples libres. Il est naturel que la Grande-Bretagne lui tende une main fraternelle et que la mère de la liberté salue joyeusement l'entrée de l'Egypte dans la Société des Nations, ce concert des Etats indépendants et souverains organisés pour l'établissement de la paix entre tous les peuples du monde.

[J 1097/4/16]

No. 6.

Anglo-Egyptian Negotiations. Text of Egyptian Proposals communicated by Egyptian Delegation on April 2, 1930.

ARTICLE 1.

THE military occupation of Egypt by the forces of His Britannic Majesty is terminated.

ARTICLE 2.

An alliance is established between the high contracting parties with a view to consolidating their friendship, their cordial understanding and their good relations

ARTICLE 3.

Great Britain recognises Egypt's right to become a member of the League of Nations as a sovereign, independent State, in accordance with the provisions of the Covenant of the League.

ARTICLE 4.

Should any dispute with a third State produce a situation which involves the risk of a rupture with that State, the high contracting parties will consult each other with a view to the settlement of the said dispute by peaceful means in accordance with the provisions of the Covenant of the League of Nations and of any other international obligations which may be applicable to the case.

ARTICLE 5.

Each of the high contracting parties undertakes not to adopt in foreign countries an attitude which is inconsistent with the alliance or to conclude political treaties inconsistent with the provisions of the present treaty.

ARTICLE 6.

His Britannic Majesty recognises that the responsibility for the lives and properties of foreigners in Egypt devolves exclusively upon the Egyptian Government.

ARTICLE 7.

Should, notwithstanding the provisions of paragraph 4 above, either of the high contracting parties become engaged in war, the other high contracting party will, subject always to the provisions of paragraph 14 below, immediately come to his aid in the capacity of an ally. His Egyptian Majesty's aid will consist in furnishing to His Britannic Majesty on Egyptian territory all the facilities and assistance in his power, including the use of his ports, aerodromes and means of communication, without prejudice in any way to Egyptian laws and administration

ARTICLE 8

To be omitted.

(The Egyptian Government will, by an exchange of notes, demand the presence of a British military mission, for a definite period, with a view to the instruction and training of the Egyptian army.)

ARTICLE 9.

Until such time as the Egyptian army shall be in a position to hold off by its own resources an attack on the Canal, pending the arrival of allied reinforcements, His Majesty the King of Egypt authorises His Britannic Majesty to place at Port Fuad and in its neighbourhood a British military force to assist in the defence of the Canal. The presence of these forces shall not constitute in any manner an occupation, and will in no way prejudice the sovereign rights of Egypt.

NOTE.—The number of these forces and the conditions relating to their accommodation will be specified by an exchange of notes

ARTICLE 10.

To be omitted.

ARTICLE 11.

His Britannic Majesty recognises that the capitulatory régime now existing in Egypt is no longer in accordance with the spirit of the times and with the present state of Egypt. Accordingly, His Britannic Majesty accepts in principle the suppression of the jurisdiction of the standing capitulatory courts and the application of the Egyptian legislation to foreigners.

NOTE.—In a separate note will be specified the functions of the Mixed Tribunals and the powers of the General Assembly

ARTICLE 12.

His Britannic Majesty and His Majesty the King of Egypt will be represented at their respective Courts by Ambassadors duly accredited according to ordinary diplomatic practice.

ARTICLE 13.

Pending the settlement of the Sudan question by future negotiations and with due reserve to all rights, the administration of the Sudan will be exercised in a joint and effective manner by the high contracting parties.

ARTICLE 14.

Nothing in the present proposals is intended to, or shall in any way, prejudice the rights and obligations which devolve, or may devolve, upon either of the high contracting parties by the Covenant of the League of Nations or the treaty for the Renunciation of War signed at Paris on the 27th August, 1928.

ARTICLE 15.

The high contracting parties agree that any difference on the subject of the application or the interpretation of the provisions of the present proposals which they are unable to settle by direct negotiations shall be dealt with in accordance with the provisions of the Covenant of the League of Nations.

ARTICLE 16.

The present treaty shall remain in force for a period of twenty years from the date of its ratification and may be renewed or modified by mutual consent.

[J 1071/4/16]

No. 7.

Text of Egyptian Proposals communicated on April 2; with Departmental Comments thereon.

*Egyptian Proposals.**Comments.*

1. THE military occupation of Egypt by the forces of His Britannic Majesty is terminated.

1. ALL right, identical with 1929 proposals.

2. An alliance is established between the high contracting parties with a view to consolidating their friendship, their cordial understanding, and their good relations.

2. All right; practically identical with 1929 proposals.

3. Great Britain recognises Egypt's right to become a member of the League of Nations, as a sovereign independent State, in accordance with the provisions of the Covenant of the League.

3. Article 1 of the Covenant lays down that a State must, before admission, "give effective guarantees of its sincere intention to observe its international obligations, and shall accept such regulations as may be prescribed by the League in regard to its military, naval and air forces and armaments."

The passage underlined is important; the League fixed definite limits on the armies of both Lithuania and Finland before admitting them

It was on the strength of this provision that Sir A. Chamberlain overcame War Office opposition to his draft treaty with Sarwat. If we do not insist on Egypt applying for membership we shall be attacked in Parliament.

4. Should any dispute with a third State produce a situation which involves a risk of a rupture with that State, the high contracting parties will consult each other with a view to the settlement of the said dispute by peaceful means, in accordance with the provisions of the Covenant of the League of Nations, and of any other international obligations which may be applicable to the case.

4. This only differs from 1929 proposals in substituting the phrase "will consult each other" for "will concert together."

But we want to utilise the Egyptian demand for the modification in the second sentence of clause 7 to induce them to agree to a modification of this clause which should run, "should any dispute between Egypt and a third State, &c. . . ."

We want to get out of the obligation to consult Egypt if, for instance, we have a quarrel with Norway over fishing rights or Afghanistan over frontier tribes.

5. Each of the high contracting parties undertakes not to adopt in foreign countries an attitude which is inconsistent with the alliance, or to conclude political treaties inconsistent with the provisions of the present treaty.

5. This is a condensed version of the 1929 proposals, and one that is actually more acceptable to us *so far as it goes*. We want, however, to get a sentence on the lines of the similar provision in the Four-Power Pacific Pact (Washington, the 13th December, 1921). "There shall be full and frank consultation between the high contracting parties in all matters of foreign policy which may affect their common interests."

6. His Britannic Majesty recognises that the responsibility for the lives and property of foreigners in Egypt devolves

6. This substitutes "exclusively" for "henceforth," and omits the vitally important second sentence, "His Majesty

Egyptian Proposals—(continued).

exclusively upon the Egyptian Government.

7. Should, notwithstanding the provisions of paragraph 4 above, either of the high contracting parties become engaged in war, the other high contracting party will, subject always to the provisions of paragraph 14 below, immediately come to his aid in the capacity of an ally. His Egyptian Majesty's aid will consist in furnishing to His Britannic Majesty on Egyptian territory all the facilities and assistance in his power, including the use of his ports, aerodromes and means of communications, without prejudice, in any way, to Egyptian laws and administration.

8. To be omitted. (1) *Footnote.*—The Egyptian Government will, by exchange of notes, demand the presence of a British military mission, for a definite period, with a view to the instruction and training of the Egyptian army.

9. Until such time as the Egyptian army shall be in a position to hold off by its own resources an attack on the Canal pending the arrival of allied reinforcements, His Majesty the King of Egypt authorises His Britannic Majesty to place at Port Fuad and its neighbourhood a British military force, to assist in the defence of the Canal. The presence of these forces shall not constitute in any manner an occupation, and will in no way prejudice the sovereign rights of Egypt. (2) *Footnote.*—The number of those forces and the conditions relating to their accommodation will be specified by an exchange of notes.

10. To be omitted.

11. His Britannic Majesty recognises that the capitulatory régime now existing in Egypt is no longer in accordance with the spirit of the times and with the present state of Egypt.

Accordingly, His Britannic Majesty accepts in principle the suppression of the jurisdiction of the existing consular courts and the application of Egyptian legislation to foreigners.

(In a separate note will be specified the functions of the Mixed Tribunals and the powers of its General Assembly.)

12. His Britannic Majesty and His Majesty the King of Egypt will be repre-

Comments—(continued).

the King of Egypt will ensure the fulfilment of his obligations in this respect." Our whole defence of the clause rests on this sentence, and we have said so in Parliament.

7. This confines Egyptian aid to Egyptian territory. This we can accept, if they will agree to our modification of clause 4, *cf.* note on that clause. But we cannot possibly agree to the omission of the words "in the event of war or menace of war," nor to the insertion of the qualification "without prejudice, in any way, to Egyptian laws and administration."

8. We cannot possibly omit this essential provision, which is permanent. The mere presence of a military mission for a defined period, as suggested in the footnote, does not give us adequate protection.

9. It is unnecessary to discuss the phraseology of this draft as the confinement of the troops to Port Fuad (east of the Canal, opposite Port Said) and their limitation in numbers, *cf.* footnote, are completely unacceptable.

10. Is a vital clause. We cannot possibly omit it, and in view of the attitude adopted by the Wafd since their advent to power it is doubtful whether it really covers us sufficiently.

11. First paragraph is identical with the 1929 proposals.

We cannot accept the wording of the second paragraph. We must retain the provision that the transfer of consular jurisdiction will take place "in conditions which will safeguard the legitimate interests of foreigners."

12. This will not do. It does not retain for us the special precedence of our

Egyptian Proposals—(continued).

presented at their respective courts by ambassadors duly accredited according to ordinary diplomatic practice.

13. Pending the settlement of the Sudan question by future negotiations and with due reserve to all rights, the administration of the Sudan will be exercised, in a joint and effective manner, by the high contracting parties.

14. Nothing in the present proposals is intended to or shall in any way prejudice the rights and obligations which devolve, or may devolve, upon either of the high contracting parties under the Covenant of the League of Nations or the Treaty for the Renunciation of War signed at Paris on the 27th August, 1928.

15. The high contracting parties agree that any difference on the subject of the application or the interpretation of the provisions of the present proposals which they are unable to settle by direct negotiations shall be dealt with in accordance with the provisions of the Covenant of the League of Nations.

16. The present treaty shall remain in force for a period of twenty years from the date of its ratification and may be renewed or modified by mutual consent.

Comments—(continued).

Ambassador over the rest of the Diplomatic Corps. If we give way over this we shall be violently attacked and have no adequate defence.

13. This is definitely unacceptable. What *exactly* does "in a joint and effective manner by the high contracting parties" mean? The 1899 Convention prescribes that the Governor-General *alone* shall administer: he is the legal embodiment of the Anglo-Egyptian condominium. Any Egyptian interference in the administration is quite impossible: we should be unable to defend such a concession in Parliament and it would produce chaos in the Sudan. Unless Nahas is prepared to drop his pretensions over clause 13 it is quite useless to continue the discussions.

14 and 15 are identical with the 1929 proposals.

16. This reduces the period during which the treaty is *not* open to modification from twenty-five to twenty years. But instead of allowing the treaty to run on after the twenty years unless modified by agreement, the effect of the Egyptian draft is to make the treaty expire unless it is renewed or modified.

[J 1088/4/16]

No. 8.

Record of Proceedings at Second Meeting with the Egyptian Delegation on April 3, 1930.

THE following were present :—

Egyptian Delegation.

Nahas Pasha.
Wacyf Ghali Pasha.
Osman Moharrem Pasha.
Makram Ebeid Bey.
Mustapha Sadek Bey.
Kamel Selim Bey.

British Delegation.

Mr. Henderson.
Lord Passfield.
Mr. Shaw.
Lord Thomson.
Sir R. Vansittart.
Sir P. Loraine.
Mr. Mack.
Mr. Dalton.
Mr. Selby.
Mr. Murray.
Mr. Campbell.

Mr. Henderson opened the proceedings by saying that he was afraid that the task which the British Delegation had set the Egyptian Delegation at the last meeting in asking for formulæ defining their statement of principles was so great that it took a long time, and, as the Egyptian Delegation were aware, the drafts only reached him last evening; he had consequently had no opportunity of consulting his committee, or even of communicating copies of the Egyptian proposals to them. It was for consideration this morning whether it would not be best for him to ask for an adjournment in order to give him an opportunity of examining these proposals in consultation with his colleagues; Mr. Henderson had personally examined them carefully overnight, and it was only fair to say that there were some ten points of very marked difference between the Egyptian and British proposals, and five out of the ten were of so serious a nature and so widely different from the proposals—one of the five being the Sudan—that he must say that his committee would have very great difficulty in knowing how to deal with them; even if agreement could be secured here in the committee, he was convinced, having regard to the position of the Government in Parliament, that it was absolutely impossible for his Government to carry a treaty on the lines proposed through the British Parliament. Mr. Henderson felt that he must, in his position as Foreign Secretary, give this fair warning based solely on his own examination, since his colleagues had not yet had an opportunity of examining the Egyptian proposals.

Nahas Pasha said that, with regard to the question of the adjournment of the present meeting, he and his colleagues fully agreed that Mr. Henderson and his colleagues should have time to study the Egyptian proposals. He was sorry that these had reached Mr. Henderson so late. The delay had been due to the importance of the task entrusted to the Egyptian delegates, which had taken all their time, and he hoped that when Mr. Henderson and his colleagues had studied the proposals in their own time they would find that the Egyptian delegates had been very moderate, had not departed from the spirit of the British proposals, and had tried to reconcile both. They had taken into consideration both the position of the present British Government and their own difficulties in Egypt; they were fully confident that, after a full study had been made, it would be realised that the Egyptian proposals represented an honest attempt to reconcile the interests of both parties.

With regard to the Sudan, Nahas Pasha explained that his proposals did not depart from Mr. Henderson's; all they were asking for was joint participation in the administration of the Sudan; this was exactly what Mr. Henderson had referred to when he mentioned the 1899 convention; according to this instrument, the administration of the country was to be shared between the two countries; prior to the conclusion of that convention Egypt had administrative control of the Sudan; the convention had given England a share in that administration. He was confident that when their proposals were discussed Mr. Henderson and his colleagues would find that the Egyptian delegates had been really very moderate, since the Sudan was exceptionally important and vital to Egypt. An agreement was vital for both

countries, and, when Mr. Henderson had to defend himself in Parliament, both he, and Nahas Pasha in his turn in the Egyptian Parliament, would do so in a clear and honest manner, and convince their respective countries that the concessions they had made or would make in the future had only been given in the sincere desire for an agreement in the interests of both countries. It was only fair that the right situation of both countries in the Sudan should be well known, and he hoped that the anxieties and apprehensions expressed by Mr. Henderson would disappear.

Mr. Henderson said that there was nothing more to be done to-day, and suggested that the meeting should adjourn until 10.30 to-morrow; in the meantime his committee would study the Egyptian proposals. He enquired whether at the next meeting Nahas Pasha wished to go through the articles in their numerical order, or to begin on some particular point. Mr. Henderson expressed a preference for the former course.

Nahas Pasha said that he agreed and would prefer to discuss the articles one by one.

It was decided to inform the press that a meeting had been held this morning and had been adjourned until to-morrow morning.

Foreign Office, April 3, 1930.

[J 1106/4/16]

No. 9.

Air Ministry to Foreign Office.—(Received April 4.)

(Secret.)

Sir,

Air Ministry, April 3, 1930.

I AM commanded by the Air Council to refer to Foreign Office letter of the 28th March transmitting a summary of the conclusions of inter-departmental conferences and the legal sub-committee in regard to modifications which it is desirable to make in the draft proposals for an Anglo-Egyptian treaty.

In reply I am to request that you will place the following observations on the summary before the Secretary of State for Foreign Affairs :—

(1) *Clauses 4, 5, 7.*

The Air Council concur.

(2) *Clause 9.*

The Air Council concur.

(3) *Army Note (i).*

The council doubt whether it would be practicable for the designs and specifications to be prepared by a joint Anglo-Egyptian Commission. They suggest that the designs and specifications should be prepared by the British authorities and submitted for examination by a joint Anglo-Egyptian Commission.

They agree that the formula "lands and modern permanent accommodation, facilities and amenities according to standards generally recognised as satisfactory to His Majesty's Government" is suitable. They assume that the quantity of accommodation required will be governed by the terms of proposal 9—"such forces as His Britannic Majesty considers necessary for this purpose."

The council concur in the War Office draft marked B in regard to amenities.

(4) *Army Note (ii).*

As regards sections (4) and (6) of the "Conclusions," the Air Council prefer, before commenting, to await the receipt of the revised clause which your Department has in preparation, and of the considered expression of opinion which your Department was to offer as to the extent to which the revised clause covers the matters scheduled in the enclosure to this Department's letter of the 19th March. They would be glad to receive these at a very early date.

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(5) *Army Note, Final Paragraph.*

The council desire to point out that the last paragraph of the Air Ministry draft has been omitted, viz:—

"It is further agreed that the facilities to be thus mutually provided shall include the right for military aircraft to carry arms, ammunition, to carry and use wireless telegraph and photographic apparatus, and, in case of emergency, to erect temporary ground wireless telegraph stations."

They regard this provision as necessary, and presume that its omission was accidental.

They also desire to refer to Air Vice-Marshal Newall's demi-official letter to Mr. Murray of the 28th March, suggesting the addition to the final paragraph of the Army Note as modified of provision giving the Air Ministry the right—

- (a) To inspect the aerodromes and landing grounds which the Egyptian Government undertake to maintain in Egyptian territory in order to ensure that their condition is such as to render them fit for use by Royal Air Force aircraft;
- (b) To lay down fuel dumps if required.

As these aerodromes and landing grounds are a vital link in the strategic air route from the Canal Zone to the Sudan and to British territory in East, West and South Africa, the council desire to emphasise the importance of adequate provision for their maintenance in an efficient state.

They do not wish to press for the incorporation of a specific provision to this effect in the treaty proposals if, in Mr. Henderson's view, it can be assumed that, in the event of the Egyptian Government at any time failing to provide adequately for the maintenance of aerodromes and landing grounds on the strategic air route, no objection would be offered by the Egyptian Government to His Majesty's Government making its own arrangements for their maintenance. If, however, there is any doubt as to this, the Air Council consider it desirable that the right of His Majesty's Government to do so should be expressly provided for in the Army Note.

Finally, the council desire to refer to Air Vice-Marshal Newall's demi-official letter to Mr. Murray, dated the 31st March, explaining that, in view of the absence of any Egyptian legislation authorising the restriction of flying in time of emergency, they would feel happier if words in the following sense could be added to proposal 7: "And will, at the request of His Britannic Majesty, restrict or prohibit the use by civil aircraft of any aerodrome, or the operation of all or certain civil aircraft within Egyptian territory."

Copies of this letter have been sent to the War Office and Admiralty.

I am, &c.

J. A. WEBSTER.

[J 1109/4/16]

No. 10.

Record of Proceedings at a Meeting of the British Delegation on April 4, 1930.

BEFORE the meeting with the Egyptian delegation on the 4th April, a meeting of the British delegation was held at which the Secretary of State, Lord Passfield, Mr. Shaw, Lord Thomson, Sir Robert Vansittart, Sir P. Loraine, Mr. Dalton, Mr. Selby, Mr. Murray, Mr. Campbell and Mr. Mack were present.

Mr. Henderson stated that he had had a long conversation with Nahas Pasha the previous evening; the conversation chiefly concerned the Sudan; Nahas Pasha's thesis was that the joint and effective share in the administration which the Egyptian delegation had proposed was in entire harmony with the convention of 1899, and particularly with the third paragraph, "and whereas it is desired to give effect to the claims which have accrued to Her Britannic Majesty's Government by right of conquest to share in the present settlement and future working and development of the said system of administration and legislation"; this, Nahas

Pasha interpreted to mean that Egypt had a right to share in the administration; Nahas Pasha had specially emphasised that he wanted any reference to the 1899 convention to be excluded from the treaty.

Mr. Henderson had then switched Nahas Pasha on to the first six articles of the proposals, and had derived the impression that there would be no difficulty about them; Nahas Pasha said that there was no doubt that Egypt intended to join the League of Nations as the League was so often mentioned in the articles of the proposals. Mr. Henderson felt that it was unnecessary to stick to the British wording of article 3, and the only question was how to amalgamate the British and Egyptian points of view.

Lord Passfield suggested that something might be inserted in the preamble.

Mr. Selby referred to the negotiations with Sarwat Pasha in 1927, and to the limitation of the Egyptian army to 12,000, which had then been proposed; Egypt, on her admission to the League, would have to accept some such limitations.

Mr. Murray also mentioned the territorial guarantee which the League of Nations provided.

Mr. Henderson said that, with regard to article 4, Nahas Pasha required a definition of "concert together."

Mr. Shaw said that "concert together" implied a subsequent agreement; consultation might lead nowhere.

Mr. Henderson said that if there was a likelihood of a rupture Egypt should be consulted, as we should have to ask her for something later.

Mr. Murray suggested that, before the committee was committed to a decision, Sir Robert Vansittart and Mr. Malkin, who felt strongly about this article, might be consulted.

Mr. Henderson said that there was no question of commitment now; the committee was discussing possibilities.

Sir Percy Loraine suggested that the Egyptian delegation might be asked what distinction they drew between "concert together" and "consult."

Lord Passfield expressed the opinion that the use of the words "concert together" implied that Egypt would be treated as one of His Majesty's Dominions.

With regard to article 5, Mr. Henderson did not anticipate that Nahas Pasha would make much difficulty about adding our proposed amendment.

With regard to article 6, Mr. Henderson had told Nahas Pasha that he did not like the Egyptian proposal.

Lord Thomson said that, as he read the Egyptian proposal, it implied that if rows broke out, British troops would probably be under Egyptian command.

Mr. Murray said that the Egyptian proposal barred all intervention by us.

Sir Percy Loraine agreed; the Egyptian idea was to stop our representative taking any action; he quoted Mr. Henderson's statement in the House of Commons on this article.

Mr. Henderson pointed out that the retention of the word "henceforth" did not give us the right of intervention.

Mr. Campbell said that "exclusively" might be included provided the second sentence in the British draft stood; the point was that the protection of foreigners must be a treaty obligation undertaken by Egypt to His Majesty's Government.

Sir Percy Loraine said that "exclusively" would prevent His Majesty's representative intervening before a menace of war.

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Mr. Henderson pointed out that the League of Nations provided for such a contingency; diplomatically, His Majesty's representative could intervene in actual fact, but to put everything we wanted in an article would only create difficulties.

Lord Passfield said that the risk of rupture was not the same as the risk of war.

Mr. Henderson agreed, and suggested that we should proceed on the lines that there should be opportunity to consult; he would prefer the word "definitely" to "henceforth" and would ask for the reinsertion of the second sentence of the British draft.

Mr. Campbell said that the Egyptians wanted the word "exclusively" in order to change the character of the clause and to emphasise the change by omitting the second sentence.

Lord Passfield suggested that article 6 might be preceded by a reference to articles 4 and 5.

Mr. Murray said that this suggestion did not help so far as the second sentence was concerned.

Sir Robert Vansittart, who had just come in, said that we should be in great difficulty with foreign Powers if we accepted the proposed Egyptian wording.

Mr. Murray said that there would be parliamentary difficulties also.

Sir Percy Loraine suggested that we should get an explanation from the Egyptian delegation as to what they meant by "exclusively."

Mr. Murray said that *Mr. Campbell* had made the proposal that it was very important from a tactical point of view that we should work on the text of the British proposals and treat the Egyptian proposals as observations on them.

Mr. Henderson agreed.

Sir Robert Vansittart said that this was the only course to adopt, since *Nahas Pasha* had come to London to negotiate "dans les propositions."

Mr. Henderson said that he had reminded *Nahas Pasha* of his previous utterances and promises to *Sir Percy Loraine* the previous evening.

Lord Thomson mentioned that what was rubbed in in the House of Lords by the Opposition was the question of protection from riot; did the article imply that our assistance could be invoked in quelling a riot?

Mr. Henderson thought not; we imposed on Egypt a responsibility and it was for Egypt to have an internal organisation to fulfil that responsibility; we are not night-watchmen; he could not take the responsibility for changing the British draft.

[J 1107/4/16]

No. 11.

Record of Proceedings at Third Meeting with the Egyptian Delegation on April 4, 1930.

THE following were present:—

Egyptian Delegation.

Nahas Pasha.
Wacyf Ghali Pasha.
Osman Moharrem Pasha.
Makram Ebeid Bey.
Mustapha Sadek Bey.
Kamel Selim Bey.

British Delegation.

Mr. Henderson.
Lord Passfield.
Mr. Shaw.
Lord Thomson.
Sir R. Vansittart.
Sir P. Loraine.
Mr. Dalton.
Mr. Selby.
Mr. Murray.
Mr. Campbell.
Mr. Mack.

NOTE.—For convenience of reference, the British proposals as published and the Egyptian proposals as communicated on the 2nd April are reproduced at the beginning of the discussion on each article.

ARTICLE 1.

British Proposal.

The military occupation of Egypt by the forces of His Britannic Majesty is terminated.

Egyptian Proposal.

The military occupation of Egypt by the forces of His Britannic Majesty is terminated.

Mr. Henderson opened the proceedings by saying that it was agreed yesterday to take each article in order. He enquired whether the Egyptian delegation agreed to article 1 as set out in the British White Paper.

Nahas Pasha replied in the affirmative.

ARTICLE 2.

British Proposal.

An alliance is established between the high contracting parties in consecration of their friendship, their cordial understanding and their good relations.

Egyptian Proposal.

An alliance is established between the high contracting parties with a view to consolidating their friendship, their cordial understanding and their good relations.

Mr. Henderson said that he agreed to the text of article 2 proposed by the Egyptian delegation.

ARTICLE 3.

British Proposal.

Egypt being anxious to become a member of the League of Nations, will present in the conditions prescribed by article 1 of the Covenant a request for admission to the League, which His Britannic Majesty undertakes to support.

Egyptian Proposal.

Great Britain recognises Egypt's right to become a member of the League of Nations as a sovereign independent State, in accordance with the provisions of the Covenant of the League.

Mr. Henderson remarked, with regard to this article, that the Egyptian delegation had made some change. He would like to suggest that it should be made a little clearer that Egypt intended to apply for membership of the League of

Nations immediately the treaty was ratified. Perhaps it would be better to ask a drafting committee to combine both proposals in one article.

Nahas Pasha enquired whether there was any doubt about Egypt's intention to apply for membership, since article 15 indicated that the League of Nations must come in. If, however, there was any doubt about Egypt's intention, he had no objection to making it clearer.

Mr. Henderson said that, since it was agreed that Egypt intended to apply, it was only necessary to examine whether a little amalgamation of the two texts was necessary.

Nahas Pasha suggested that, if the meaning was not quite clear, an addition might be made to the beginning of the sentence. For example: "As Egypt desires to become a member . . ."

Mr. Henderson said that the point was that there must be a drafting committee. If the Egyptian delegation felt that they did not require "the support of His Britannic Majesty" to be specifically mentioned in this clause, he had no objection to the omission of these words, and suggested that the article might be left to the Drafting Committee.

Nahas Pasha said that it was just a matter of form, with which *Mr. Henderson* agreed.

ARTICLE 4.

British Proposal.

Should any dispute with a third State produce a situation which involves a risk of a rupture with that State, the high contracting parties will concert together with a view to the settlement of the said dispute by peaceful means in accordance with the provisions of the Covenant of the League of Nations and of any other international obligations which may be applicable to the case.

Mr. Henderson said that the Egyptian delegation had made a change here and had substituted the words "consult each other" for "concert together." He asked why this alteration had been made.

Nahas Pasha explained that he had had no special idea in mind when choosing "consult" instead of "concert," but it happened that the word "consult" had been used in the Chamberlain-Sarwat draft and coincided exactly with the Arabic translation.

Mr. Henderson enquired whether it was the intention of the Egyptian delegation that there should be consultation on every question that might arise; supposing, for example, His Majesty's Government had a quarrel with Norway over fishing rights, or Afghanistan over frontier tribes, did Egypt want to be consulted in such questions? That was his only objection.

Nahas Pasha replied in the negative, and said that this idea was far from his mind; all his delegation wanted was that we should consult on very important matters which might produce the risk of a rupture.

Mr. Henderson expressed his agreement so far as he was concerned, and enquired whether any member of the committee wished to say anything.

Sir R. Vansittart suggested that a modification of the beginning of this clause might be discussed, which should run "Should any dispute between Egypt and a third State, &c."

Mr. Henderson said that this was a drafting point which could be dealt with by the Drafting Committee.

Nahas Pasha enquired whether the meaning could be made clearer by inserting the word "serious" or "immediate" before "risk."

Egyptian Proposal.

Should any dispute with a third State produce a situation which involves a risk of a rupture with that State, the high contracting parties will consult each other with a view to the settlement of the said dispute by peaceful means, in accordance with the provisions of the Covenant of the League of Nations, and of any other international obligations which may be applicable to the case.

Sir R. Vansittart said that this did not entirely meet his views; it would be best to let the Drafting Committee hammer it out.

Mr. Henderson said that there was no dispute on the principle involved; it was now purely a case of draftsmanship, in order to ensure that Egypt would not be dragged in for matters which were of no concern to her; it might be left, therefore, for the Drafting Committee to supply a form of words on which both sides had agreed; this formula would then be submitted to the full committee.

ARTICLE 5.

British Proposal.

Each of the high contracting parties undertakes not to adopt in foreign countries an attitude which is inconsistent with the alliance or will create difficulties for the other party thereto. In pursuance of this undertaking they will not oppose each other's policy in foreign countries, nor conclude with a third Power any agreement of a political character which might be prejudicial to the interests of the other party.

Egyptian Proposal.

Each of the high contracting parties undertakes not to adopt in foreign countries an attitude which is inconsistent with the alliance, or to conclude political treaties inconsistent with the provisions of the present treaty.

Mr. Henderson remarked that the Egyptian delegation had slightly varied the wording; the British delegation was prepared to accept the text proposed by the Egyptian delegation, but thought that the article would be strengthened by the addition of a sentence on the lines of the similar provision in the Four-Power Pacific Pact of 1921: "There shall be full and frank consultation between the high contracting parties in all matters of foreign policy which may affect their common interests."

Nahas Pasha enquired whether this was the exact wording of the Pacific Pact.

Mr. Murray explained that it was not the actual wording; the words in the Pacific Pact had been used in a different context; the passage in that instrument read as follows: "If the said rights are threatened by the aggressive action of any other Power, the high contracting parties shall communicate with one another fully and frankly in order to arrive at an understanding as to the most efficient measures to be taken jointly or separately to meet the exigencies of the particular situation."

Nahas Pasha pointed out that this provision really existed already in article 4, which covered the proposed addition.

Mr. Henderson said that, in view of article 4, the Egyptian delegation might think the proposed addition superfluous; this was a matter which the drafting committee might consider and report on; there was no vital question involved in it.

Nahas Pasha said that the article of the Washington Pact referred to a state of aggression or war which really came under article 4 of the present proposals; he could not see how it came under article 5, which indicated a state of peace.

Mr. Henderson said that, supposing a third Power interfered in such a way as to affect the rights of Egypt and Great Britain, and it was necessary for both countries to safeguard their rights, surely it was of manifest importance that consultation should take place immediately with a view to protect their common interests; there was a slight difference.

Lord Passfield thought that it was a question of form as to whether the words should be added to article 4 or article 5; in his opinion article 4 dealt with the case of war and article 5 the case of peace.

Mr. Henderson said that this was not the only point; he gathered that *Nahas Pasha* felt that the addition was superfluous.

Nahas Pasha explained that his opinion was that, if the risk of war arose, article 4 would apply, the addition proposed related to cases of aggression and should go under article 4; if it was intended that the suggested addition should apply in peace time this was not acceptable to his delegation.

Mr. Henderson explained that the addition would only apply if a third party attempted to do anything affecting their common interests.

Mr. Murray gave as an instance the case of Abyssinia attempting to do something with the waters of the Upper Nile which would affect the common interests of Great Britain and Egypt.

Nahas Pasha said that there was no real danger; consultation was to be deduced from the other articles of the treaty; of course, both parties would consult, but to add a specific obligation to this effect to the treaty would cause difficulties in Egypt, more especially as articles 4 and 5 already provided for consultation.

Mr. Henderson said that this addition had only been submitted to the Egyptian delegation this morning; he saw *Nahas Pasha's* point and realised his difficulties; he suggested that the Egyptian delegation should take away and reflect on the proposed additional wording and communicate their views later; the British delegation only wanted to be helpful.

Mr. Henderson's suggestion was adopted.

ARTICLE 6.

British Proposal.

His Britannic Majesty recognises that the responsibility for the lives and property of foreigners in Egypt devolves henceforth upon the Egyptian Government. His Majesty the King of Egypt will ensure the fulfilment of his obligations in this respect.

Mr. Henderson pointed out that the Egyptian delegation had made two alterations, one on which the British delegation required an explanation, and another which the British delegation regarded as most important. With regard to the former, the word "exclusively" had been substituted for "henceforth"; what did the Egyptian delegation intend by the word "exclusively"? With regard to the latter, the Egyptian delegation had removed the second sentence in the British draft. This sentence was most important from the British point of view, and its omission might create great difficulties for His Majesty's Government in Parliament; in the debate which had taken place in the House of Commons the serious criticism had been made that His Majesty's Government were yielding their great responsibilities for the protection of the lives and property of foreigners, and the strength of the case for His Majesty's Government rested on the fact that this last sentence had been inserted. This was perhaps the most important matter which had been discussed this morning.

Nahas Pasha explained that his idea in altering "henceforth" to "exclusively" was this: Egypt was not only now, but always had been responsible for the lives and property of foreigners in Egypt since they were living in Egypt; the word "henceforth" might imply that Egypt had not always in the past been responsible; the responsibility must be hers as an absolute right; as Great Britain was no longer responsible the word "exclusively" was in its right place.

Mr. Henderson said that he could not admit that Great Britain had no responsibility for the protection of the lives and property of foreigners; she had had up to now a measure of responsibility, since this question was one of the reserved points under the declaration of 1922 and that was why he said now that "henceforth" the responsibility was Egypt's.

(At this stage of the proceedings Lord Passfield withdrew.)

Nahas Pasha enquired whether *Mr. Henderson's* statement meant that Egypt had not been responsible in the past; Egypt had always been responsible and had not abandoned her rights and duties.

Mr. Henderson said that Egypt might not have abandoned the responsibility but that in practice Great Britain had had the responsibility; the word "henceforth" had been inserted in order to emphasise that the responsibility was now Egypt's and to show that a change was being made.

Nahas Pasha said he could not admit that Egypt was not responsible and if Great Britain took on herself the protection of foreigners the use of the word "henceforth" indicated a change and constituted a proof that Egypt had not always been responsible; in actual practice Egypt and not Great Britain had always borne the consequences of any attempt on the lives and property of foreigners.

Mr. Henderson suggested that the next point might now be taken, since both hung together.

Nahas Pasha said that with regard to the second point it was only natural that the King of Egypt should have an absolute right to protect foreigners, since he had also the absolute responsibility; both went hand in hand. For this reason the obligation devolving on the King of Egypt was so natural that it required no specific mention. It had, in fact, been made clear in Mohammed Mahmoud Pasha's Green Book that the second sentence of this clause had only been inserted for the sake of emphasis.

Mr. Henderson quoted the second sentence, and said that it was vitally important for His Majesty's present Government to be able to show the House of Commons that the responsibility which they renounced rested somewhere else.

Nahas Pasha said that the responsibility of Egypt for the lives and property of foreigners was not really the outcome of the treaty, but was due to the fact that foreigners lived in Egypt, and was the natural outcome of Egypt being a sovereign and independent country; why, therefore, point this out in the treaty and make it a superfluous addition which might create difficulties?

Mr. Henderson said that if the proposals had not been brought before the British public there might have been something to be said for the point made by *Nahas Pasha*. If it did not matter to His Excellency it mattered a great deal to His Majesty's Government. The treaty had to go to the House of Commons, and to eliminate this sentence from the draft would be merely courting defeat in Parliament.

Nahas Pasha remarked that the responsibility of the King of Egypt was obvious and natural.

Mr. Henderson enquired why the sentence should not be inserted.

Nahas Pasha replied that the sentence might be taken to mean that the King of Egypt did not know his duties. It was not "delicate" to remind His Majesty of what was his duty and what not his duty.

Mr. Henderson admitted that that was one interpretation, but that it was not his.

Nahas Pasha retorted that it would be so interpreted in Egypt.

Mr. Henderson said that it must be borne in mind that His Majesty's Government had published their proposals, and that there was a strong feeling in this country that they had gone too far. Surely there must be higher ground for a change than that mentioned by *Nahas Pasha*.

Nahas Pasha asked what interpretation or what importance His Majesty's Government attached to this part of the article.

Mr. Henderson repeated that the proposals of His Majesty's Government had been published to the world and backed in the House of Commons. He thought that the change which the Egyptian delegation wanted to make was very important; it was really only a sentimental change, and he would be prepared to accept only a wording such as "... upon the Egyptian Government, which will ensure the fulfilment of its obligations in this respect."

Nahas Pasha said that this was really the same thing, since it implied that the Egyptian Government did not know their duty. He enquired again what practical importance *Mr. Henderson* attached to the change.

Mr. Henderson replied that it was in order to show public opinion that His Majesty's Government, in passing on the responsibility for the protection of the lives and property of foreigners which they claimed to have held, were doing everything possible to ensure that the party to which they were being handed over carried them out.

Nahas Pasha said that, in his opinion, the mere mention of this part of the article implied that Egypt would be responsible before His Majesty's Government, and that the latter were still responsible for the lives and property of foreigners.

Mr. Henderson said that he could not see the point; it was emphasised that the Egyptian Government were responsible; surely His Majesty's Government were entitled to indicate that the Egyptian Government were responsible to them?

Nahas Pasha said that if no possible interpretation of the article could indicate that Great Britain could intervene in any way, then he had no objection to the insertion of the last sentence in the British draft; if Great Britain retained the right to tell Egypt that she had not done her duty to foreigners, then he could not accept this removal of the rights and sovereignty of Egypt.

Mr. Henderson enquired whether he was to understand that agreement was reached if the British delegation agreed to the word "exclusively"; if it were found, when drafting, that both words "henceforth" and "exclusively" would meet the Egyptian point of view, he was prepared that they should both be included.

Mr. Shaw expressed the opinion that this suggestion met the Egyptian view absolutely; the exclusive right was admitted as Egypt's own and was accepted by her.

Nahas Pasha said that the mention of the word "henceforth" was really in contradiction with Egypt's own original duties and the political views held in Egypt on the subject; its omission was not out of harmony with the British views. He was prepared to retain the latter sentence in order to please the British delegation, but it must be clear that it only emphasised the first sentence and did not give Great Britain the right to interfere.

Mr. Henderson remarked that if both countries were in alliance they had the right to consult one another; was he not to send His Majesty's Ambassador to consult the Egyptian Government or invite the Egyptian representative to come and see him? If that was *Nahas Pasha's* interpretation, then the British delegation could not accept it.

Nahas Pasha said that that was not his idea; the question of consultation which was provided for in article 4 covered this point also in the event of a case of rupture; he did not deny *Mr. Henderson's* thesis.

Mr. Henderson said that we must have a definition of what *Nahas Pasha* meant when he said that the clause did not give Great Britain the right to interfere; supposing that the lives and property of Frenchmen or Italians were involved, were His Majesty's Government to stand by, even though they were in friendly relations with both countries? He had constantly to send friendly hints to friendly and allied countries; the art of diplomacy lay in friendly talk in order to avoid trouble; Great Britain had no intention of prying into all Egypt's affairs; she must, however, safeguard the risk of possible trouble; both countries had been involved in the Great War, which had broken out on perhaps the smallest point which had ever given rise to hostilities; this had led to a world war; Egypt and Great Britain had to consult, but they must consult as friends.

Nahas Pasha replied that it was natural that in all important matters there should be contact and consultation, but, as *Mr. Henderson* had mentioned, as an example, a possible dispute with Norway, there was no question of both sides running to each other on all questions, but only on really important questions under article 4; so long as it was not denied that Egypt had the exclusive responsibility for the protection of foreigners, friendly consultation would surely take place.

Mr. Shaw pointed out that that was exactly what *Mr. Henderson* had said.

Mr. Henderson enquired, therefore, whether article 6 was agreed to with or without "henceforth" but with "exclusively," and the words "Egyptian Government" for "King of Egypt."

Nahas Pasha said that he preferred the omission of the word "henceforth."

Mr. Henderson then said the clause would read: "His Britannic Majesty recognises that the responsibility for the lives and property of foreigners in Egypt devolves exclusively upon the Egyptian Government, which will ensure the fulfilment of its obligations in this respect."

ARTICLE 7.

British Proposal.

Should, notwithstanding the provisions of paragraph 4 above, either of the high contracting parties become engaged in war, the other high contracting party will subject always to the provisions of paragraph 14 below, immediately come to his aid in the capacity of an ally. In particular, His Majesty the King of Egypt will, in the event of war or menace of war, furnish to His Britannic Majesty on Egyptian territory all the facilities and assistance in his power, including the use of his ports, aerodromes and means of communication.

Mr. Henderson said that there were one or two points he wished to raise, but he did not think they involved any serious difficulty; he was a little concerned as to why the Egyptian delegation had omitted the words "in the event of war or menace of war"; we could not wait for the eleventh hour and fifty-ninth second before taking action; he hoped that this clause would never have to be invoked; it had been very carefully considered, and was really a preventative measure more than anything else.

Nahas Pasha said that he had no objection to our wording; it was purely a drafting point.

Mr. Murray explained that the point was that Great Britain wished to know that she could rely on Egypt's help and all facilities before war broke out.

Nahas Pasha admitted that this was necessary, since it might avert the outbreak of war.

Mr. Henderson then enquired what the Egyptian delegation intended by using the words "without prejudice to Egyptian laws and administration" in this article; if the situation provided for in this paragraph had arisen, Great Britain might want Egypt's assistance, or Egypt Great Britain's, and the Egyptian Government might have to apply for emergency powers, as His Majesty's Government did in 1914.

Nahas Pasha admitted that the Egyptian Government might have to have recourse to emergency measures; he meant that the Egyptian Government would take all such measures.

Mr. Shaw said that the words proposed by the Egyptian delegation might be dangerous if there was any doubt as to their implication; the Egyptian delegation should either agree to the omission of these words or else define them strictly in order to show that a matter of machinery only and no question of interpretation was involved; he did not want the situation to arise when His Majesty's Government might ask for facilities and the Egyptian Government might say that its laws prevented them according them.

Nahas Pasha said he was ready to give the necessary explanation.

Mr. Shaw said that he was very glad; the first clause of this article left no doubt about the frank recognition of Egypt as a sovereign State; he wanted to be sure that Egypt as an ally would give Great Britain what she wanted, and he required a very clear definition that there was no possible danger of Egypt not giving what Great Britain wanted.

Nahas Pasha said that this would be all right; allied help was not in question.

Mr. Henderson said that this was a question of drafting; if *Mr. Shaw's* point were made clear he was prepared to agree to *Nahas Pasha's* suggestion that assistance from Egypt should be confined to Egyptian territory.

Mr. Henderson added that he thought the meeting could congratulate itself on the progress achieved; he felt that both sides were really acting in the spirit which

had animated the British proposals; he suggested that the next meeting should take place on Monday morning at 11 o'clock.

Nahas Pasha expressed the same sentiments, and considered that the meeting this morning was a good augury for future meetings.

It was accordingly decided that the next meeting should take place on Monday morning, the 7th April, at 11 o'clock.

Mr. Henderson said that some points of drafting had been left over; he suggested that the Drafting Committee should meet and prepare the first seven articles in a form which the full committee could finally approve.

Nahas Pasha said that he had no objection, and that on the Egyptian side *Wacyf Ghali Pasha* and *Makram Ebeid Bey*, accompanied by a legal adviser, would represent the Egyptian delegation on the Drafting Committee.

Mr. Henderson said that the British members would be *Mr. Malkin*, *Mr. Murray* and *Mr. Campbell*; as purely questions of drafting were involved, he did not want to trouble his Cabinet colleagues, who would have an opportunity of examining the drafts afterwards.

Nahas Pasha said that the Egyptian delegation attached such great importance to this question that he regarded it as necessary for *Wacyf Ghali Pasha* and *Makram Ebeid Bey* to sit on the Drafting Committee.

It was decided to inform the press that a further meeting had been held, which sat from 11 A.M. until 1 P.M.; that very good progress had been made; and that another meeting had been fixed for Monday morning next. (*Nahas Pasha* particularly wished that nothing should be said to the press about the Drafting Committee, since it would only make people ask questions.)

Foreign Office, April 4, 1930.

[J 1133/4/16]

No. 12.

Record of Proceedings at a Meeting of the British Delegation on April 7, 1930.

BEFORE the meeting with the Egyptian delegation on the 7th April, a meeting of the British delegation was held, at which the following were present:—

<i>Mr. Henderson.</i>	<i>Major Casey.</i>
<i>Lord Passfield.</i>	<i>Mr. Clutterbuck.</i>
<i>Mr. Shaw.</i>	<i>Major-General Charles.</i>
<i>Lord Thomson.</i>	<i>Mr. Selby.</i>
<i>Sir R. Vansittart.</i>	<i>Mr. Murray.</i>
<i>Sir P. Loraine.</i>	<i>Mr. Campbell.</i>
<i>Mr. Dalton.</i>	<i>Mr. Scrivener.</i>
<i>The High Commissioner for New Zealand.</i>	<i>Mr. Mack.</i>

Mr. Henderson said that the discussion this morning with the Egyptians would open on article 8. He thought of beginning by asking why the Egyptians wanted the omission of this article; on going over the question, he had thought of suggesting an alternative draft on the lines of article 5 of the Chamberlain-Sarwat draft; the clause would read: "In view of the co-operation between the two armies contemplated in the preceding article, the Egyptian Government pledge themselves to carry out the instruction and training of the Egyptian army in accordance with the methods of the British army; should the Egyptian Government deem it necessary to have recourse to the services of foreign officers or instructors, they will choose them from among British subjects." The value of this alternative lay in its difference from the proposal made to Mahmoud. He enquired whether the War Office saw any objection to putting it up.

Mr. Shaw said that the War Office view was that it was very essential to have a clause of this kind in the treaty in order to prevent any agitation in the Egyptian army against us, and to prevent the admission of other foreign officers into the Egyptian army.

The discussion then turned on article 9 of the proposals.

Mr. Henderson said that when this article was discussed with the Egyptian delegation he must ask either *Mr. Shaw* or *General Charles* to state the position.

Lord Passfield said that the War Office representative should also explain that larger areas were wanted for training purposes.

General Charles said that the War Office wanted to be able to use large desert areas for training; ten miles in one direction was no good; the idea of locating forces north of the Sweet Water Canal could not be entertained.

Mr. Henderson said that the first point was to put the case against British troops being confined to the east side of the Canal.

General Charles said that it was absurd from the military point of view that the troops should be located at Port Fuad, as the Egyptians suggested; an aerodrome would have to be provided also; Port Fuad would prevent training of any description; the Sinai Peninsula was equally out of the question; it was quite arid; there was not a drop of water anywhere.

Mr. Murray agreed that there was no considerable supply of permanent water until the neighbourhood of the Palestine border was reached.

Lord Thomson said that he personally felt that, from the air force point of view, the centre of the garrison should be at Moascar; the air force also wanted a seaplane base at Port Fuad, although this would mean reclaiming lost land; the main point was that there should be breathing space around Ismailia; but if the air force were transferred there would have to be barrack accommodation and shops at Port Fuad; he was inclined to support *General Charles*; it would be impossible to manoeuvre from Port Fuad.

General Charles repeated that the British forces could not go north of the Sweet Water Canal.

Lord Thomson enquired why the forces should be confined to a rigid line of 32 degrees east longitude. Would it not be possible to insert a clause giving them the right to manoeuvre in addition?

Mr. Shaw said that the crucial point was that there should be space to train; we were not asking for cultivated but desert land.

Mr. Murray enquired whether the War Office would agree to the troops being stationed on the Canal, with access for training to the desert areas on either side.

Mr. Campbell said that he gathered that the Egyptian Government were going to make a strong fight to have the British forces stationed on the east side of the Canal; he did not think the Egyptians would make much difficulty about the training areas.

Mr. Murray pointed out that the ground around Port Fuad, which was a tiny town, was a howling wilderness.

Mr. Shaw said that what was now suggested was quite contrary to clause 9 of the proposals.

Mr. Campbell enquired whether the War Office had a definite reply to the Egyptian proposal ready.

General Charles replied in the negative and pointed out that clause 9 said that "localities to be agreed upon"; the question of water supply was very important; an investigation commission would be necessary.

Mr. Henderson remarked that seven months had elapsed since the proposals had been published; the War Office must know what they wanted.

Lord Thomson thought that no advance could be made until localities had been settled; he could not say what the money requirements would be until a decision about Port Fuad had been taken.

Mr. Henderson said that we could not ask Egypt to sign a blank cheque; Egypt should know where the troops were to be and what she had to pay. He understood that a sum of between 10 and 20 millions had been mentioned.

Mr. Shaw said that he could give no estimate of cost until the sites had been agreed upon.

Mr. Henderson said that we must find a way of getting out of this vicious circle.

Lord Thomson said that if the Egyptians could agree to clause 9 as it stood, then the next step would be to set up a commission to settle where the troops were to be.

Mr. Henderson enquired what kind of commission *Lord Thomson* contemplated.

Lord Thomson said that the commission might be composed of representatives of the Air Ministry and War Office, with the corresponding people on the Egyptian side; it would be necessary to include experts accustomed to works of this kind and people to draw up estimates; he had consulted the Air Ministry expert on this subject, who could give no estimate without knowing the site; when *Lord Thomson* had pressed him, he gave an estimate of between two and a quarter and three million pounds.

Sir R. Vansittart pointed out that at the inter-departmental meeting of the 10th March it had been suggested that a purely British commission should first survey the sites and that an Anglo-Egyptian commission should then come in.

Mr. Henderson said that he did not like the idea of a purely British commission and thought that the Egyptians could reasonably object to it.

Sir R. Vansittart pointed out that the functions of the British commission would be quite exploratory; any decision would be left to the joint commission.

Mr. Henderson said that he preferred *Lord Thomson's* idea of a joint commission to start with.

Mr. Shaw pointed out that this was what the proposals said "in localities to be agreed upon"; no estimate was possible until the localities had been settled.

Mr. Murray said that *Mahmoud Pasha* last summer had been ready to give a blank cheque; it was unlikely that *Nahas* would.

Mr. Shaw repeated that the War Office must act on the wording "localities to be agreed upon"; no estimate was possible until sites had been selected.

Lord Thomson suggested that "east of 32 degrees" might be made more elastic, in order to provide for manœuvres, in another paragraph.

Mr. Henderson said that *Mr. Shaw's* argument must be used, but that he wanted to suggest a joint commission.

Lord Thomson agreed with *Mr. Henderson*.

Mr. Murray enquired what would happen if the joint commission could not agree.

Mr. Henderson said that this point did not arise at the moment; were we to suggest a commission in two parts: (i) exploratory, (ii) final?

Mr. Shaw thought that nothing would be gained by two commissions, since it would rest with the joint commission to reach agreement.

Lord Thomson thought that much might be gained by having a joint commission.

Lord Passfield said that each side of the joint commission would have to inform itself exactly of what it wanted; both tasks might be performed by one commission.

Mr. Henderson said that it was necessary to settle the line within which the commission would work.

Mr. Shaw said that the east side of the Canal was impossible.

Lord Thomson considered that we must take a definite line and stick to 32 degrees.

Lord Passfield said that an air line like 32 degrees was not good; was it not possible to have natural line?

Mr. Murray enquired whether it would be possible to say that the troops would be stationed within 10 miles of the Canal, for example, but that more ground would be provided for manœuvres.

Lord Thomson said that some general indication was necessary west of which British forces would not go; the commission might say, after viewing the ground, that no British cantonments would be west of 10 miles' distance from the Canal.

Sir R. Vansittart thought it would be better for the commission to see the sites first.

Mr. Henderson thought we should try to get the Egyptians to agree to our draft or else give them an alternative proposal; we should stand by our proposal of last July unless it was changed by agreement.

Sir R. Vansittart pointed out that a joint commission was being proposed.

Mr. Henderson thought it would be necessary to substitute something for article 9, since the Egyptians wanted an entirely different wording; they had negatived our wording and we negatived theirs; they would hardly accept a joint commission.

Lord Thomson suggested that the Egyptian proposal about Port Fuad should be turned down.

Mr. Henderson said that the committee was unanimous on that point.

General Charles said that he had no personal knowledge of the Canal area; he suggested that the General Officer Commanding Troops in Egypt should be consulted as to whether a belt of 10 miles west of the Canal was adequate for cantonments.

Mr. Murray said that he hoped that the Egyptians would take something general.

Mr. Wilford said that both Australia and New Zealand viewed with alarm the suggestion that British troops should be confined to the east side of the Canal. If *Mr. Henderson* thought it would be helpful, both he and Major Casey would telegraph to their Governments and ask them to make statements which could be telegraphed to the press here.

Mr. Henderson thanked *Mr. Wilford* for this suggestion.

Lord Passfield said that the British forces should cover the whole length of the Canal.

Mr. Murray pointed out that the War Office wanted to have troops at Suez and the Air Ministry an aerodrome at Port Fuad; the British forces would thus be pretty well strung out.

Lord Passfield asked whether this could be defined in any other way than the alarming phrase "east of 32 degrees"?

Mr. Murray suggested that the wording might be "in the vicinities of Port Fuad, Ismailia and Suez."

At this stage the Egyptian delegation was announced.

Record of Proceedings at Fourth Meeting with the Egyptian Delegation on April 7, 1930.

The following were present :—

Egyptian Delegation.

Nahas Pasha.
Wacyf Ghali Pasha.
Osman Moharrem Pasha.
Makram Ebeid Bey.
Mustapha Sadek Bey.
Kamel Selim Bey.

British Delegation.

Mr. Henderson.
Lord Passfield.
Mr. Shaw.
Lord Thomson.
Sir R. Vansittart.
Sir P. Loraine.
Mr. Dalton.
Major-General Sir K. Wigram.
Major-General Charles.
Air Vice-Marshal Newall.
Major R. G. Casey.
Mr. Clutterbuck.
Mr. Selby.
Mr. Murray.
Mr. Campbell.
Mr. Scrivener.
Mr. Mack.

ARTICLE 8.

British Proposal.

In view of the desirability of identity in training and methods between the Egyptian and British armies, His Majesty the King of Egypt undertakes that, should he deem it necessary to have recourse to foreign military instructors, these shall be chosen from amongst British subjects.

Mr. Henderson proposed to discuss clause 8; he had noticed that the Egyptian delegation in their draft had suggested the omission of this clause; it would be helpful if the delegation would state the reasons why they wanted its omission.

Nahas Pasha explained that his reason for omitting the clause and suggesting a footnote was that the matter was one of a temporary nature which ended with the training and instruction of the Egyptian army; the presence of a mission would not be permanent, since it would only be for a definite period while the Egyptian army was being instructed and trained; it was thus merely a provisional measure.

Mr. Henderson enquired whether the training of an army was a temporary arrangement.

Makram Ebeid explained that this was not the kind of clause which should be inserted in a treaty, but should more properly be dealt with by an exchange of notes.

Mr. Henderson said that there was another principle involved; during a definite period British officers would be required, but what the British delegation wanted was that, after that officers from no other country would be employed by the Egyptian army; from this point of view the arrangement between the two armies would be permanent.

Nahas Pasha said that, as a matter of fact, after a British mission had organised, instructed and trained the Egyptian army, the latter would not be in need of foreign instruction; there was thus no need for such a provision in the very heart of the treaty.

Egyptian Proposal.

To be omitted. (1) *Footnote:* The Egyptian Government will, by exchange of notes, demand the presence of a British military mission, for a definite period, with a view to the instruction and training of the Egyptian army.

Mr. Henderson pointed out that it had been already arranged that in the event of future trouble Egypt and Great Britain were to be allies; while there was some truth in the Egyptian contention that training was a temporary matter, it was also in a sense permanent, since the alliance would be permanent; it was necessary, therefore, for the British delegation to ensure that if British officers were no longer there, the officers of no other army were there.

Nahas Pasha said that, as a matter of fact, once the Egyptian army had been trained by English instructors and by English methods, it was obvious that Egypt would continue to employ British instructors if she required any; there would thus be no need for foreign instructors; he suggested that the wording used in clause 8 of the British proposals should be provided for in a note; to retain this clause in the treaty would place Egypt in a position of inferiority and imply that she was a tributary State.

Mr. Henderson reminded *Nahas Pasha* that the first clause of the proposed treaty laid down that the military occupation of Egypt was terminated.

Makram Ebeid said that what *Nahas Pasha* had in mind was that the dignity of the Egyptian nation did not permit of foreign instruction; *de facto* arrangements which were in the interest of the Egyptian army might be made between the two parties.

Mr. Henderson enquired whether, if the committee were prepared to agree on suitable notes, the Egyptian delegation would repeat in their note the assurance that no foreign officers would be employed for training purposes after the period fixed for the British military mission had terminated.

Nahas Pasha agreed in principle; the question was really a matter of dignity; the precise formula could be agreed when the notes were being drafted; once Egypt had completed her military instruction she would not want any more, but if the necessity did arise, she would look to England to provide it.

Mr. Shaw said that, if we were to be allies and each party was to come to the assistance of the other, he did not see any reason why it should not be definitely stated, preferably in the treaty itself, that the alliance was so real as to exclude foreign officers from the Egyptian army.

Nahas Pasha said that there was really agreement in principle; there was only the legal side of the matter to consider; any suggestion of inferiority would put the treaty in a different light; an exchange of notes as between allies would prevent any difficulties of interpretation.

Lord Thomson said that there was no question of dignity involved, nor was the provision of a temporary nature; continual intercourse took place between two allied armies; it was surely advisable to retain the British proposal in the treaty; this was a permanent alliance; our common interests required the clause, which was a fundamental principle of a treaty of alliance; co-operation would be impossible without constant intercourse between the British and Egyptian staffs in view of new methods and developments.

At this point *Mr. Henderson* communicated to the Egyptian delegation article 5 of the Chamberlain-Sarwat draft and enquired whether they would prefer its wording to clause 8 of the proposals which were now under discussion; the clause read as follows :—

“ In view of the co-operation between the two armies contemplated in the preceding article, the Egyptian Government pledge themselves to carry out the instruction and training of the Egyptian army in accordance with the methods of the British army; should the Egyptian Government deem it necessary to have recourse to the services of foreign officers or instructors, they would choose them from among British subjects.”

Nahas Pasha said that the Egyptian delegation were really agreed in principle and would show their good faith by facts; although he had been unable to find any alliance in which there was a similar clause, nevertheless, he was prepared to agree to a note forming an annex to the treaty.

Mr. Shaw enquired why, if he was prepared to agree to a note, *Nahas Pasha* objected to the provision appearing in the treaty.

Nahas Pasha explained that the reason was that he could find no precedent in any international treaty; Egypt would be placed in the position of a tributary.

Mr. Henderson said that he required an answer to the following point: the British proposals contained this provision, and everything which was taken out of the draft treaty would cause serious interrogation in the House of Lords and House of Commons; the mere fact that a change had been made would be interpreted to show that something had been given away; why did the Egyptian delegation create difficulties over a matter in which they were agreed in principle with His Majesty's Government when by such action they were going to place His Majesty's Government in an indefensible position?

Nahas Pasha explained once again that this matter would be in its proper place in explanatory notes; why insert it in the body of the treaty when the request for the mission would be in the notes; he repeated that such a clause in the treaty would put Egypt in a position of inferiority; the reply to parliamentary criticism would be that if the clause was not in the treaty it was in the notes, and had the same force and value; he wanted the treaty to have the appearance and to be, in fact, a treaty between two equals of independent sovereignty.

Mr. Henderson enquired whether, if we could agree on the terms of the exchange of notes, the Egyptian delegation would prefer clause 8 from his proposals of last summer or clause 5 of the Chamberlain-Sarwat draft; the British delegation attached very great importance to the point.

Nahas Pasha replied that as *Mr. Henderson* thought it necessary, the Egyptian delegation accepted the wording of clause 8 of *Mr. Henderson's* proposals, not the Chamberlain-Sarwat draft.

Mr. Henderson said that he and his colleagues would take this into consideration.

ARTICLE 9.

British Proposal.

In order to facilitate and secure to His Britannic Majesty the protection of the Suez Canal as an essential means of communication between the different parts of the British Empire, His Majesty the King of Egypt authorises His Britannic Majesty to maintain upon Egyptian territory, in localities to be agreed upon, to the east of longitude 32° E., such forces as His Britannic Majesty considers necessary for this purpose. The presence of these forces shall not constitute in any manner an occupation, and will in no way prejudice the sovereign rights of Egypt.

Mr. Henderson said that clause 9 raised the large question of the location of the troops, the Egyptian delegation had put up the startling proposal that the British troops should be located on the other side of the Canal. He hoped they would hear the case stated on behalf of the War Office as to the impracticability of this suggestion.

Nahas Pasha agreed.

Mr. Shaw said that from the War Office point of view there were three essentials. The first was that the positions in which the troops were stationed must be such as to guarantee the defence of the Canal. The second was that the localities chosen should be as nearly as possible irreproachable from the point of view of health, exercise, &c. The third was that there should be land enough available in the hard desert for training purposes away from inhabited centres; otherwise, the troops would be neither healthy nor well-trained, and would be incapable of defending the Canal. He suggested that the Egyptian proposal gave none of these

Egyptian Proposal.

Until such time as the Egyptian army shall be in a position to hold off by its own resources an attack on the Canal pending the arrival of allied reinforcements, His Majesty the King of Egypt authorises His Britannic Majesty to place at Port Fuad and its neighbourhood a British military force, to assist in the defence of the Canal. The presence of these forces shall not constitute in any manner an occupation, and will in no way prejudice the sovereign rights of Egypt.

(2) *Footnote.*—The number of those forces and the conditions relating to their accommodation will be specified by an exchange of notes.

three requirements. In desert areas there would be no interference with the Egyptian people. He thought that all these essentials could be met, but not by the Egyptian proposal.

Nahas Pasha said that he had really no objection to these principles; he agreed with them, but he asked why the essentials mentioned by *Mr. Shaw* were not to be found at Port Fuad or its neighbourhood. The Egyptian delegation had deliberately chosen Port Fuad as fulfilling all these requirements.

Mr. Shaw said that the area surrounding Port Fuad was marshy or covered with water. The sand was soft; sand-flies abounded, and probably mosquitoes as well.

Mr. Henderson suggested it would be well to hear what General Charles had to say from the military point of view.

General Charles explained that, from the defence point of view, the Canal could not be defended with troops in one particular spot; it was difficult to foretell against whom the Canal would have to be defended. He said that the experience of 1914 and 1915 had shown that the stretch of desert east of the Suez Canal, which had previously been ruled out of court for military operations, could be crossed by big bodies of troops operating from a distance, which had, in fact, delivered and pressed home with considerable vigour attacks on the Canal itself. For this reason the War Office thought that the defence of the Canal should be such as to admit of troops being in localities which would enable them to carry out operations; they must be in places where they could carry out a study of the spot and of the localities in which they might be called upon to fight.

Nahas Pasha pointed out that the Egyptian suggestion of Port Fuad extended to all its environments as well. Special lands would be provided for training; there would be a sufficient supply of water, and pipes could be laid to any locality where the troops might be; there were mosquitoes everywhere in Egypt, and Port Fuad, in fact, contained a minimum of mosquitoes, that was why Port Fuad had been chosen. As General Charles had said, the experience of 1915 proved that enemy troops could cross the desert. He thought Port Fuad was a better position than any other for warding off an attack, since Egyptian troops occupied important posts on the route leading to the Canal and could co-operate. The British troops would thus be in a better position for the defence of the Canal at Port Fuad and its neighbourhood. He still thought that Port Fuad satisfied all the necessary conditions and was suitable for the comfort of the troops; it was also the handiest place for the purpose; it was a new town. From the military point of view, it was the best position for warding off an attack through the desert. He could therefore see no objection to it from the military or the health point of view.

Lord Thomson said that military experience had shown that the Canal could not be defended from one point on one side, the troops must be dispersed along the length of the Canal. If they were all stationed at Port Fuad it would be impossible to get them away to the spots which were attacked; they must be able to watch the place they were defending.

Nahas Pasha said that the object of the British military force was to help the Egyptian army in the defence of the Canal. They would be there in time of peace, not in time of war. The Egyptian delegation thought that in time of peace the British forces should be in one place and the Egyptian forces in another. If a state of war arose the existence of both posts and the presence of aeroplanes would provide for notice of an enemy attack, and the forces would be sufficient to hold off the enemy until reinforcements arrived. A big army on the Canal was out of the question in time of peace; the point was that the forces should be large enough to prevent their being taken by surprise.

Lord Thomson pointed out that we should not get twenty-four hours' warning of an attack from the east or from the south, and if British troops were kept at Port Fuad in ignorance of what they were to do or where they were to fight, it would be a case of locking the stable door after the horse had been stolen; the object of a first attack would be an act of sabotage on the Canal itself which might take months to repair; the Canal could not be defended in an amateurish fashion; with all respect to the Egyptian delegation, it was nonsense to say that the Canal could be defended from Port Fuad; as he had just said, the object of an air attack would be to destroy the Canal; constant supervision and patrolling over the whole length was therefore

essential; one flight of four aeroplanes provided with bombs would be sufficient to attack the Canal from the east 300 miles away; there must be look-outs to meet such attacks in the air.

Nahas Pasha enquired what the present position was, and pointed out that no such precautions were taken now.

Lord Thomson said that there were very extensive forces at Moascar and Abu Sueir.

Nahas Pasha said that Moascar was one position; what he suggested was that this one position should be at Port Fuad.

Sir P. Loraine pointed out that the troops at Moascar could be reinforced from Cairo and Alexandria, which were not vulnerable.

Makram Ebeid said that the troops at Port Fuad could be reinforced by Egyptian troops from Cairo and by British troops from England or elsewhere.

Mr. Henderson said that, after this general discussion, it would be well to get back to the wording of the clause in the British proposals. There was no mention in the Egyptian alternative of the vital opening passage: "In order to facilitate and secure to His Britannic Majesty the protection of the Suez Canal as an essential means of communication between the different parts of the British Empire"; the Egyptian delegation had removed these words, but they were, in his view, vital; the feelings of His Majesty's Governments in the Dominions had to be taken into account; if these words were removed those Governments would be entitled to think that their interests were being forgotten. The second point was that the British forces were to be stationed in "localities to be agreed upon"; these localities could not be agreed upon round the table at which they were sitting; some form of commission must be decided upon which would visit and select the localities; the British delegation must make sure, in order to get the treaty through, that satisfactory amenities had been provided for.

Mr. Henderson laid further emphasis on the Empire aspect of the Canal, and suggested reference to a commission which would agree on the spot as to the best location; he reminded the Egyptian delegation again that the presence of British troops was not an occupation. The two points which he had mentioned, which the Egyptian delegation had eliminated entirely, were really very important.

Nahas Pasha said that the first point had been omitted since it was replaced by the main object, which was the defence of the Canal; but the defence of the Canal was not only important to Egypt but also to England and the whole world. The essential aim of the clause had been maintained and England was allowed to assist Egypt to defend the Canal. Moreover, by the treaty of 1888, no nation had preferential rights over the Canal; were we now to go against that treaty and say that England had special rights? The essential point was the defence of the Canal, which was frankly mentioned in the article. The Egyptian delegation wished to avoid the legal objection which would arise if they said that England had special rights with regard to the Canal.

Mr. Henderson said that the Egyptian delegation could not wonder at our wishing to say that the Canal was an essential means of communication between the different parts of the British Empire; it was essential to have something like this in the treaty; feeling in Australia and New Zealand was strong on the subject.

Nahas Pasha said that he quite understood that Australia and New Zealand should want Great Britain to participate, but this would be contrary to the treaty of 1888.

Mr. Henderson said that this was not the case; the British proposal only said essential for our purposes; there was no suggestion that it was not essential for the purposes of others. He suggested that, as he had to attend a Cabinet meeting now, he should send a revision of the article to the Egyptian delegation based on their joint points of view; this re-draft *Mr. Henderson* would send to the Egyptian delegation this afternoon, so that discussion could be resumed at the next meeting.

It was decided that the next meeting should be held at 10.30 to-morrow morning.

Foreign Office, April 7, 1930

[J 1134/4/16]

No. 14.

Record of Proceedings at First Meeting of Anglo-Egyptian Drafting Committee on April 7, 1930.

THE following were present:—

Egyptian Members.

Wacyf Ghali Pasha.
Makram Ebeid Bey.

British Members.

Mr. Malkin.
Mr. Murray.
Mr. Campbell.

The object of the meeting was to hear the views of the Egyptian members on a draft of articles 1 to 7 of the proposed treaty which had been submitted to them by the British members for their consideration. This draft is attached, marked "A."

Article 1.

Agreed.

Article 2.

Agreed.

Article 3.

The Egyptian members proposed to revise the draft as follows:—

"As Egypt intends to apply for membership of the League of Nations, His Britannic Majesty recognises her right as a sovereign independent State to become a member of the League in accordance with the provisions of the Covenant of the League."

Mr. Malkin pointed out that on this wording His Britannic Majesty might appear to be arrogating to himself the function of the League in deciding whether or not Egypt was qualified in accordance with the provisions of the Covenant and therefore had a right to become a member of the League. After discussion, the following re-draft was agreed:—

"As Egypt intends to apply for membership of the League of Nations, His Britannic Majesty recognises her right as a sovereign independent State to become a member of the League on complying with the provisions of the Covenant of the League."

Article 4.

The Egyptian members stated that they objected to the inclusion of the last sentence, which they considered should be omitted on the ground that either it imported a new obligation which they were unable to accept or was already covered by the preceding sentence, and was therefore superfluous.

Mr. Campbell explained that the first sentence dealt with the attitude which one or other of the parties to the treaty might adopt in a foreign country, while the second sentence related to the action which a third party might take in regard to matters affecting the common interests of both parties to the proposed treaty.

Makram Bey Ebeid explained at some length that the Egyptians were extremely suspicious of any undertaking to consult, as, historically, the whole position of Great Britain in Egypt had been built up on the progressive development of consultation into executive interference.

Mr. Murray pointed out that some article of this nature was to be found in many treaties of alliance or friendship, and quoted from the various Anglo-Japanese treaties of alliance.

[21319]

Makram Bey repeated that the history of Japan's connexion with England was entirely different from that of England's connexion with Egypt, and that, in any case, the article would be regarded in Egypt as an obligation imposed upon the Wafd additional to anything imposed upon Mahmoud Pasha. Moreover, the Egyptian members claimed that at the meeting of the full committee the insertion of some article of this nature had merely been suggested to Nahas Pasha for his consideration by the Secretary of State; the Egyptian delegation had given the point their full consideration and did not see their way to accept the article.

Mr. Campbell reminded the Egyptian members that *Mr. Henderson* had asked whether he was really to understand that Nahas Pasha objected to the insertion in a treaty in which they proposed to become allies and friends of an article saying that they would freely and frankly talk to each other about matters affecting their common interests.

Makram Bey replied that such conversations would, of course, take place quite naturally in the ordinary course of events and without any special provision in the treaty.

Mr. Campbell said that it was clear that the matter they were now discussing was not a drafting point but a question of principle, and as the Egyptian members were unwilling to accept any article of the kind, there was no alternative except to refer the matter back to Nahas Pasha and the Secretary of State.

Article 5.

The Egyptian members proposed that the article should only relate to "disputes arising of so grave a nature as to be likely to lead to a rupture."

Mr. Campbell pointed out that it was not the nature of the dispute, but the fact that it was likely to lead to a rupture which was the important thing, and reminded the Egyptian members of *Mr. Henderson's* illustration that the Great War had arisen from a very insignificant incident.

Mr. Malkin explained that the wording of the article was in accordance with the wording of article 12 of the Covenant of the League, and that it was very desirable to keep this wording, since the settlement of the dispute was to be in accordance with the provisions of the Covenant. After considerable discussion, the article was redrafted as follows:—

"Should a dispute with a third State arise which, in the terms of article 12 of the Covenant of the League of Nations, is likely to lead to a rupture. . . ."

Mr. Murray asked whether the Egyptian members would be prepared to limit the application of the article to disputes between Egypt and a third State, but the Egyptian members replied that this would destroy reciprocity, and they could not possibly accept anything of the kind.

Article 6.

An extremely prolonged and stubborn discussion arose on this article. The Egyptian members wished to remove the words "will ensure," and to replace them by some such words as "take upon themselves."

Mr. Malkin said he could not accept this substitution, as, in that case, the second sentence would be merely a repetition of the first and would not contain any undertaking on the part of Egypt.

The Egyptian members stated that it had never been intended to give any undertaking on the part of Egypt, and that the second sentence was meant merely to confirm the first.

Mr. Campbell reminded them that the principle underlying the whole of this article had been discussed at great length in the full committee, and that, ultimately, the Secretary of State had offered to allow the word "exclusively" to replace the word "henceforth," provided the second sentence was retained. The Secretary of State had gone farther than this, and offered to alter the form of the article so as to meet Egyptian susceptibilities. Nahas Pasha had agreed, and the article had, in fact, been read out textually at the full committee and accepted by both sides. *Mr. Campbell* asked why it was now desired to go back on this.

Makram Bey replied that, on reconsidering the article, it was noticed that the omission of the word "henceforth" from the first sentence gave that sentence a present instead of a future sense, and that it would therefore be more consistent to put the second sentence also in the present.

Mr. Malkin said that if this was the only point, he was prepared to accept the words "undertakes to ensure."

Makram Bey replied that this was unacceptable, because it imported an undertaking on the part of Egypt.

Mr. Campbell said that this was precisely what the second half of the article was intended to do, that the Secretary of State had explained that it was vital to him in view of what had been said in Parliament to retain this undertaking, and that Nahas Pasha had agreed.

The Egyptian members then asked that words should be added to the article to show that in no conceivable circumstances would Great Britain intervene in the internal affairs of Egypt, or, if this was not acceptable, that an express undertaking should be given to them that the article did not import any such intention on the part of Great Britain.

Mr. Murray replied that the whole of this ground had already been covered in the full committee, and that he was not authorised to add anything to what had already been clearly stated by the Secretary of State, though, for his own part, he could not understand why the Egyptian members appeared to be contemplating, in view of the other provisions of the treaty, an intention on the part of Great Britain to intervene in internal administration. The article was vital, and the Egyptian members must either take it or leave it.

The Egyptian members agreed, with great reluctance, to take it.

Article 7.

The Egyptian members accepted the words "in the event of war or imminent menace of war," but were insistent that the aid to be given by His Egyptian Majesty must be qualified as being "without prejudice to Egyptian administration and legislation."

Mr. Malkin pointed out that the insertion of such words would limit Egypt's undertakings to give aid to such measures only as were not inconsistent with Egyptian legislation in force at the time.

The Egyptian members agreed that this was not their intention, and that all they were concerned to do was to ensure that such measures as might have to be taken would be taken by the Egyptian Government themselves and not by the overriding authority of the British Government. After a very lengthy discussion, the following redraft of the article was agreed:—

"Should, notwithstanding the provisions of article 5 above, either of the high contracting parties become engaged in war, the other high contracting party will, subject always to the provisions of article 14 below, immediately come to his aid in the capacity of an ally. His Egyptian Majesty's aid, in the event of war, or imminent menace of war, will consist in furnishing to His Britannic Majesty on Egyptian territory, in accordance with the Egyptian system of administration and legislation, all the facilities and assistance in his power, including the use of his ports, aerodromes and means of communication. It will accordingly be for the Egyptian Government to take all the administrative and legislative measures necessary to render these facilities and assistance effective."

The discussion of this draft of seven articles, three of which had already been agreed textually in advance, occupied two hours and a half.

The draft of the articles as finally agreed, subject to further consideration by the full committee of the second sentence of article 4, is attached marked "B."

The Egyptian members explained that they would wish to rearrange the present order of the various articles in the draft treaty, but it was agreed that this should stand over for consideration until the whole treaty had been drafted.

CECIL CAMPBELL.

Foreign Office, April 7, 1930.

With reference to preceding note, Makram Bey Ebeid telephoned this afternoon to say that Nahas Pasha prefers article 5 to remain as originally drafted in the Egyptian formula, as follows:—

"Should any dispute with a third State produce a situation which involves a risk of a rupture with that State, the high contracting parties will consult each other with a view to the settlement of the said dispute by peaceful means in accordance with the provisions of the Covenant of the League of Nations, and of any other international obligations which may be applicable to the case."

CECIL CAMPBELL.

April 7, 1930.

Enclosure 1 in No. 14.

Draft "A."

THE military occupation of Egypt by the forces of His Britannic Majesty is terminated.

2. An alliance is established between the high contracting parties with a view to consolidating their friendship, their cordial understanding and their good relations.

3. Egypt desires and His Britannic Majesty recognises her right, as a sovereign independent State, to apply for membership of the League of Nations in accordance with the provisions of the Covenant of the League.

4. Each of the high contracting parties undertakes not to adopt in foreign countries an attitude which is inconsistent with the alliance, or to conclude political treaties inconsistent with the provisions of the present treaty. [In pursuance of this undertaking the high contracting parties will fully and frankly consult together in all matters of foreign policy which directly affect their common interests.]

5. Should a dispute with a third State arise which is likely to lead to a rupture with that State, the high contracting parties will consult each other with a view to the settlement of the said dispute by peaceful means, in accordance with the provisions of the Covenant of the League of Nations, and of any other international obligations which may be applicable to the case.

6. His Britannic Majesty recognises that the responsibility for the lives and property of foreigners in Egypt devolves exclusively upon the Egyptian Government, who will ensure the fulfilment of their obligations in this respect.

7. Should, notwithstanding the provisions of paragraph 5 above, either of the high contracting parties become engaged in war, the other high contracting party will, subject always to the provisions of paragraph 14 below, immediately come to his aid in the capacity of an ally. His Egyptian Majesty's aid, in the event of war or imminent menace of war, will consist in furnishing to His Britannic Majesty on Egyptian territory all the facilities and assistance in his power, including the use of his ports, aerodromes and means of communication. The Egyptian Government will take all the administrative and legislative measures necessary to render these facilities and assistance fully effective.

Enclosure 2 in No. 14.

Draft "B."

THE military occupation of Egypt by the forces of His Britannic Majesty is terminated.

2. An alliance is established between the high contracting parties with a view to consolidating their friendship, their cordial understanding and their good relations.

3. As Egypt intends to apply for membership of the League of Nations, His Britannic Majesty recognises her right as a sovereign independent State to become a member of the League on complying with the provisions of the Covenant of the League.

4. Each of the high contracting parties undertakes not to adopt in foreign countries an attitude which is inconsistent with the alliance, or to conclude political treaties inconsistent with the provisions of the present treaty. [In pursuance of this

undertaking, the high contracting parties will fully and frankly consult together in all matters of foreign policy which directly affect their common interests.]

5. Should a dispute with a third State arise which, in the terms of article 12 of the Covenant of the League of Nations, is likely to lead to a rupture with that State, the high contracting parties will consult each other with a view to the settlement of the said dispute by peaceful means, in accordance with the provisions of the Covenant, and of any other international obligations which may be applicable to the case.

6. His Britannic Majesty recognises that the responsibility for the lives and property of foreigners in Egypt devolves exclusively upon the Egyptian Government who will ensure the fulfilment of their obligations in this respect.

7. Should, notwithstanding the provisions of article 5 above, either of the high contracting parties become engaged in war, the other high contracting party will, subject always to the provisions of article 14 below, immediately come to his aid in the capacity of an ally. His Egyptian Majesty's aid, in the event of war, or imminent menace of war, will consist in furnishing to His Britannic Majesty, on Egyptian territory, in accordance with the Egyptian system of administration and legislation, all the facilities and assistance in his power, including the use of his ports, aerodromes and means of communication. It will accordingly be for the Egyptian Government to take all the administrative and legislative measures necessary to render these facilities and assistance effective.

[J 1157/4/16]

No. 15.

Record of Proceedings at Fifth Meeting with the Egyptian Delegation on April 8, 1930, at 10.30 A.M.

THE following were present:—

Egyptian Delegation.

Nahas Pasha.
Wacyf Ghali Pasha.
Osman Moharrem Pasha.
Makram Ebeid Bey.
Mustapha Sadek Bey.
Kamel Selim Bey.

British Delegation

Mr. Henderson.
Lord Passfield.
Mr. Shaw.
Lord Thomson.
Sir R. Vansittart.
Sir P. Loraine.
Mr. Dalton.
The High Commissioner for New Zealand.
Major-General Sir K. Wigram.
Major General Charles.
Mr. Casey.
Mr. Clutterbuck.
Mr. Selby.
Mr. Murray.
Mr. Campbell.
Mr. Scrivener.
Mr. Mack.

Mr. Henderson said that it would be remembered that a fairly good discussion on clause 9 had taken place at yesterday's meeting; the British delegation had attempted to amalgamate the ideas expressed on both sides in a revised draft which had been sent to the Egyptian delegation yesterday afternoon; he would like to hear what they had to say on this draft.

(This alternative proposal for clause 9 is as follows:—

"Until such time as the High Contracting Parties may agree that the Egyptian army is in a position to hold off by its own resources an attack on the Canal pending the arrival of allied reinforcements, His Majesty the King of Egypt, recognising that the Canal is an essential means of communication between the different parts of the British Empire, authorises his Britannic

Majesty to station, close to the Canal in the neighbourhood of Port Said, Port Fuad, Ismailia and Suez, or in other places to be agreed upon, such forces as His Britannic Majesty considers necessary for its defence. These forces will enjoy facilities for communications and will have access to the desert areas on either side of the Canal for purposes of training and manœuvre. The presence of these forces shall not constitute in any manner an occupation, and will in no way prejudice the sovereign rights of Egypt.")

Nahas Pasha said that he had received the new formula yesterday; he had hoped that it would meet the Egyptian delegation's sincere desire for agreement which had actuated them when preparing their formula; the Egyptian delegation believed and believe that their formula put Egypt's rights and Great Britain's interests in the most practical manner; the British formula had not gone any distance in their direction; firstly, it seemed to suggest that the defence of the Canal was a monopoly of Great Britain's; secondly, it seemed to be based on the idea of a state of war, since the precautions envisaged were natural in a state of war but not in a state of peace; nor did it take into account Egypt's rights on the Canal. To discuss the formula in detail; firstly, it mentioned several places for British troops, although the Egyptian formula contemplated one position near the Canal which the Egyptian delegation considered sufficient for the purpose for which the treaty was to be concluded. As a matter of fact, this thesis had always been admitted by both sides in previous negotiations even as far back as the time of Lord Milner; the latter's scheme, which had been presented to the Wafd and had not been accepted by Zaghlul Pasha, used the words: "Egypt will confer on Great Britain the right to maintain a military force on Egyptian soil for the protection of her imperial communications. The treaty will fix the place where the force shall be quartered and will regulate any subsidiary matters which require to be arranged. The presence of this force shall not constitute in any manner a military occupation of the country or prejudice the rights of the Government of Egypt." Thus Lord Milner contemplated a provision for British troops being stationed in one place. The second point was the position of the post in the revised formula; he had explained yesterday why one place was sufficient; in order to show the goodwill of the Egyptian delegation he now suggested that if Port Fuad were not acceptable, the east bank of the Canal at Kantara might be substituted; this would also give access to desert areas for training, and was a central position; this proposal was made with a view to meeting the wish of the British delegation that there should be room for manœuvres, and that the spot chosen should provide for the defence of the Canal. His third point was that the words in the new formula "until such time as the high contracting parties may agree that the Egyptian army is in a position to hold off by its own resources an attack on the Canal" made what was really a position of fact depend on the agreement of both parties; the Egyptian criterion was the fact of the Egyptian army attaining such a degree of efficiency that it could defend the Canal; this was the proper criterion in their view; of course, he hoped that when the time came, England and Egypt, being allies, and the execution of the treaty having been carried out in the spirit of allies, there would be no difficulty about agreement on this point. If it was necessary to provide for all eventualities, then why not say that if both parties failed to agree recourse would be had to the League of Nations as provided by article 15 of the proposals under discussion; the Egyptian delegation had had this in view when framing their formula; the point which would be put to the League of Nations would be a question of fact which was the proper criterion. His fourth point was that the formula seemed to insist on the provision that the Suez Canal was "an essential means of communication between the different parts of the British Empire." In the Egyptian view, this formula was unnecessary and was not acceptable; the formula served no useful purpose, since its object was the defence of the Canal, and this was already admitted by the fact that both Egypt and Great Britain co-operated in this defence; why, therefore, insist on the retention of these words? The real reason why the Egyptian delegation objected to this wording was, firstly, that from the legal point of view it seemed to imply that England had a right of way over Egyptian territory which amounted to a servitude in her favour; this was an encroachment on Egypt's ownership of the Canal, which was an exclusively Egyptian waterway. His second objection was from the international standpoint. As he had pointed out yesterday, the proposed formula was contrary to the convention of 1888, which provided that no nation should have any special rights or privileges over the Canal, apart, of course, from Egypt's right of property; the Canal was an international means of communication; the British formula would

create not only difficulties in Egypt but international difficulties, and would serve no practical purpose. Mr. Henderson had said, and the Egyptian delegation entirely agreed, that these conversations should be conducted in a spirit of goodwill; he hoped that the considerations which he had just advanced would meet with the goodwill of the British delegation; he could not honestly go back to Egypt and defend in Parliament the British formula as proposed; the Egyptian delegation had shown their goodwill in providing another spot, namely, Kantara, which, in their view, met all the objections which Mr. Shaw had mentioned yesterday. In essence there was agreement on the all-important point that Egypt and Great Britain should share the defence of the Canal. He hoped, therefore, that the Egyptian formula would be considered in a spirit of goodwill.

Mr. Henderson said that he did not propose to deal with all the points that *Nahas Pasha* had mentioned; some statements would be dealt with by the Secretary of State for War. It was, however, very disappointing to him, after the time which had been spent in discussion yesterday, when many statements had been made and replied to, to hear the same statements made again to-day. He was disappointed that *Nahas Pasha* had said that he could not go back to Egypt with the British formula. The attitude which the Egyptian delegation had adopted was illogical. Why did the Egyptian delegation in one breath say that the Suez Canal was a world waterway, and in the next breath admit that Great Britain had special interests in it of such a kind as to necessitate our watching the Canal? It was because British interests were so definite owing to the Canal being the highway to very important parts of the British Empire that the British delegation must always look at the question from this standpoint; the position had merely been stated in language which had held good for many years. Mr. Henderson repeated the first words of the draft, and said that when the new arrangement had been tried by experience, the time might come when the alliance had been so welded that Great Britain might rely more on Egypt and Egypt more on Great Britain. If it was admitted that Great Britain had a special interest in the Canal, then surely it was natural to say that Egypt owed it to us as allies that we should come together and say whether the time had come when the Egyptian army was in a position to hold off an attack by its own resources. Secondly, he was rather surprised to hear Lord Milner's proposals quoted; a lot of water had flowed under the bridges since then. Why were not the British proposals of seven months ago quoted, in which the expression was used "in localities to be agreed upon," not "in a single locality"? He had tried to make it clear in the House of Commons and elsewhere that His Majesty's Government were going to see that wherever British forces were going to stay they would be well looked after from the point of view of health, and would have facilities for training and manœuvres. No document had ever been discussed which did not lay down that we would have to look after the troops. This was his reply to *Nahas Pasha's* quotation from Lord Milner. Thirdly, there was *Nahas Pasha's* suggestion of calling in the League of Nations. No one in that room was a greater believer in the League of Nations than himself, but it was not for that body to decide a question of this kind as between allies. Allied Powers ought to have sufficient competence themselves. The British position had been put quite clearly in their proposals of seven months ago. In his opinion, the League ought not to be used for such purposes; for conciliation and arbitration questions the help of the League should be invoked, but this was not a question of that kind. Mr. Henderson then invited Mr. Shaw and Lord Thomson to present their views on the military aspects of the question.

Mr. Shaw said that he was surprised at the discussion which had taken place. He agreed with Mr. Henderson that a lot of water had flowed since the Milner proposals were published, but did Lord Milner ever dream of the British forces in Egypt being confined to Port Fuad or Kantara? Let us be frank and open. There were two ways of conducting negotiations, either as two friends or as two bodies trying to get as much as possible out of each other. Was there anything wrong in saying that we were removing our forces from Cairo and Alexandria to the Canal, and stationing them there in a manner which was nothing like that of an occupation? What was wrong in saying that the Canal was vital to the Empire when all the world knew it? The Egyptian thesis was contradictory. If the Canal was an international waterway, then it was not Egyptian; if it was neutral, it was equally not Egyptian. The truth was that the Canal was a vital means of communication between the different parts of the British Empire, and anything that happened there was vital to the Empire. The British delegation said: How could the Canal best

be defended? The Egyptian delegation replied: From Port Fuad. The Egyptian delegation said the Canal could be defended by moving troops to Port Fuad, a place almost entirely surrounded by water; the British delegation said that they must be in other places as well for the specific purpose of defending the Canal without constituting an occupation. There were troops at present at Port Said and cantonments at Ismailia. He saw nothing wrong in Egypt's saying as a friendly ally that British troops would be stationed along the Canal so as to defend it. This was vital to Great Britain, and he wanted to know what objection the Egyptian delegation had to it. The Egyptian delegation had said that they could not go back to Egypt with a formula such as that proposed, but His Majesty's Government could certainly not go to the House of Commons with the Egyptian formula. He appealed to the Egyptian delegation to be reasonable and offer something better than Port Fuad, which was practically surrounded by water, or Kantara, which, to say the least of it, was not a health resort, and was no good from the defence point of view. It was to Egypt's advantage as well as Great Britain's that the troops should be best placed from the point of view of defence. His Majesty's Government could not tell the House of Commons that they had admitted, or even implied, that the Canal was not an essential means of communication to Great Britain.

Lord Thomson said that the defence of the Canal was not a legal or theoretical matter, but a practical proposition. It was a question for professional men of experience. The Egyptian delegation admitted in their own draft that Egypt could not undertake that defence; therefore, the responsibility for defending the Canal rested on Great Britain for the time being. We had men who had defended the Canal in the recent past and who were aware of the most recent developments which Egypt could not possibly know; our experts claimed that, if the responsibility for the defence of the Canal rested on us, then we must have troops in the places which had been indicated; the Egyptian delegation wanted to crowd the British forces into one spot; it was, however, impossible to put seaplanes at Kantara or to put landplanes on boggy ground at Port Fuad; an air base at Suez was also necessary; the amenities of the troops had also to be borne in mind; he had himself spent six weeks at Kantara during the war; it was a dreadful spot, and he could not imagine anyone wanting to stay there; the conditions of the troops there had been disgraceful, and it would be impossible to create amenities at Kantara. The Egyptian delegation must remember the money which Great Britain had already spent at Ismailia and Suez. For purposes of defence, the positions named—Port Said, Port Fuad, Ismailia and Suez—were absolutely essential. The Egyptian delegation should not forget that Great Britain was accepting very heavy responsibilities; Egypt would be unable to defend the Canal until her army had been trained, and meanwhile Great Britain accepted the defence of Egypt by land, sea and air; legal and theoretical points did not apply, nor, indeed, did Lord Milner's opinion, since, in spite of Lord Milner's remarkable attainments, he was not a competent military authority; in his time the troops were in places—Cairo and Alexandria—from which we now proposed to withdraw them. In the circumstances, he could not see anything more reasonable and proper than the British draft, which made considerable concessions from the British point of view.

(At this stage *Mr. Wilford* and *Major Casey* withdrew, as they had an engagement elsewhere.)

Nahas Pasha said that it was to be concluded, from the observations which had been made, that the common object of both parties was to guarantee the defence of the Canal. On that they were all most formally agreed; the Egyptian delegation wished to show that, apart from this essential point, the introduction of other matters would create difficulties for them; all the observations made by the Egyptian delegation tended to show that there was nothing to prevent the defence of the Canal, which was all-important, being guaranteed. The Egyptian delegation had suggested that a British post should remain in some locality, either Port Fuad or Kantara, until Egypt was able, by her own resources, to hold off an attack; they thought that the defence of the Canal was thus equitably and fully secured; the Egyptian army would be there as an ally, and both armies would doubtless co-operate in the defence of the Canal. This would provide an adequate guarantee for its defence. With regard to the points which had been mentioned on the British side, Lord Thomson had objected that no one could live at Kantara in comfort for more than six weeks. *Nahas Pasha* pointed out that circumstances were different during the war; since

then, Kantara had become a centre of habitation, and Egypt's object would be to turn it into an earthly paradise and unite therein everything necessary for comfort. There was every possibility of Kantara attaining this ideal once the position had been agreed upon; moreover, Kantara was on the railway line. As a matter of fact, both at Kantara and at Port Fuad everything possible would be done to make things more comfortable; he could not think for a moment of choosing an unhealthy place for the British army. (*Makram Ebeid*, who was translating, here interjected that both Kantara and Port Fuad were considerably healthier than the town in Upper Egypt from which he himself hailed.) Mr. Shaw had rightly said that it was important to find the best means of defending the Canal. With this, the Egyptian delegation agreed. Both sides were resolved to find the best means; there were no difficulties of principle, but the Egyptian delegation felt that what they had offered, together with the assistance of the Egyptian army, constituted the best means of defence. He did not say that the Egyptian army was helpless, even at present; he only meant that the time would come when the Egyptian army would have attained such a degree of efficiency that it would be able to defend the Canal by its own resources. He did not quite understand the phrase "essential means of communication." Egypt admitted that Great Britain had a real and special interest in the defence of the Canal, whether it was an international waterway or not; that was why Egypt allowed England to put military forces on the Canal. Mr. Henderson could inform Parliament that the Egyptian delegation admitted this, but to use the words "essential means of communication" would be directly contrary to the Convention of 1888; the mere fact of the alliance and Great Britain's participation in the defence of the Canal should be sufficient. There was really no contradiction as Mr. Shaw had said: the Canal belonged to Egypt, but it was also an international waterway; the Convention of 1888 had provided for the equal passage of the Canal by all nations; this had also been provided for in the Suez Canal Concession itself; there was thus no contradiction, but at the same time there was no difficulty about admitting Great Britain's special interest, and he thought that the British Parliament would make no difficulty once it realised that the Canal would be defended; its defence was essential to both countries. With regard to the question of agreement as to when the Egyptian army would be in a position to defend the Canal on its own resources, Mr. Henderson had said that he could not go to the League of Nations; it was far from the intention of the Egyptian delegation to invoke the League; what they hoped for was that the question to decide would be merely one of fact on which both parties would agree, viz.: "Can Egypt defend the Canal or not?"; if agreement could not be reached, then a question arose regarding the application of the treaty which would have to be referred to the League.

Mr. Henderson enquired why, therefore, *Nahas Pasha* objected to the opening words of the British formula: "Until such time as the high contracting parties may agree."

Nahas Pasha explained that the situation might arise when Egypt would say that she was now ready to hold off any attack; if Great Britain agreed, all would be well; if Great Britain did not agree, then it would be necessary for both sides either to find ways and means of reaching agreement, or else to go to the League of Nations and ask for a decision on the question of fact; what he hoped was that there would be agreement; however, to make things easier, the Egyptian formula said: "Until such time" (this was a question of fact) "as the Egyptian army shall be in a position to hold off by its own resources an attack on the Canal"; these words meant that the criterion was a point of fact, and he hoped that on points of fact agreement would be reached; if agreement were not reached, the League of Nations might be asked to say whether Egypt was ready or whether she was not. Mr. Henderson had said truly that much had happened since Lord Milner's time. There were two points, however, which he would like to make. Firstly, Lord Thomson had said that Lord Milner was not a military man, and, therefore, did not take into consideration the military aspects of the matter. *Nahas Pasha* would point out, however, that General Maxwell was a member of the Milner Mission, and must have known the military questions involved. Whether Lord Milner contemplated that the British forces should be stationed at a point on the Canal or not, the fact was that the members of the Wafd who had come to London at that time had assured the party on their return to Egypt that the Milner proposals meant a point on the Canal in the desert, and Lord Milner had spoken of "a mere handful of men"; this the Wafd had always understood to be Lord Milner's meaning. Secondly, Mr. Henderson had enquired why the Egyptian delegation had not mentioned his

own proposal of last July rather than Lord Milner's proposals. He (Nahas Pasha) did mean to come to an agreement, and he also thought that the Egyptian proposal was in agreement with the principle of Mr. Henderson's proposals. He pointed out that previous attempts at an Anglo-Egyptian agreement had failed because the Wafd did not admit any occupation of Egypt, which, he would remind the British delegation, had been declared many times since 1882 to be provisional; the Egyptian delegation now accepted Mr. Henderson's principle that a military force should be stationed on the Canal; Mahmoud Pasha had told everyone on his return to Egypt last summer that the British forces would be stationed at one point on the Canal. Nahas Pasha admitted Mr. Henderson's principle that there should be a British military post on the Canal, and he therefore really hoped that the British delegation would agree to his proposal.

Mr. Henderson said that he found difficulty in understanding the concluding remarks of Nahas Pasha, which, however, he had been delighted to hear, were animated by the spirit which had prevailed in the negotiations up to now. The question of the location of the British forces had been discussed yesterday, and Mr. Henderson had suggested the joint commission mentioned in his proposals of last July. He thought that yesterday's discussion had been focused in the present British draft. There was, however, no mention of a commission in the Egyptian formula, which read: "His Majesty the King of Egypt authorises His Britannic Majesty to place at Port Fuad and its neighbourhood a British military force"; this made no mention of his original suggestion "in localities to be agreed upon"; if the Egyptian delegation agreed, the commission might get to work on very wide terms of reference; the terms of reference could not be wider, and the recommendations of the commission must be agreed; his idea was that, when the treaty was signed, which he hoped would be soon, the commission should get to work in the spirit of friends and allies and settle the localities for the troops for the time that their presence on the Canal would be necessary. The last sentence of the British draft made it clear that there was no encroachment on Egypt's sovereign rights, and, if that was not enough, the use of the words "His Majesty the King of Egypt authorises His Britannic Majesty" in the middle of the paragraph emphasised that there was no challenge to Egyptian sovereignty. All that the British delegation asked was that Egypt should agree that both parties should decide when the Egyptian army was in a position to hold off an attack on its own. The second point which he wished to make was that it should be recognised that the Canal was an essential means of communication of the British Empire; this point was vital; there had been frequent references to it in past years; if the Egyptian delegation agreed in principle, as he understood them to do, and authorised British forces to join in the defence of the Canal, then what harm was there in saying that the Canal was a very important artery of the British Empire? It might be possible to alter a word here and there in the draft and make it satisfactory to both sides.

Nahas Pasha said that he took note of the very friendly spirit in which Mr. Henderson had spoken. He entirely reciprocated that spirit and hoped that it would enable them to arrive at a satisfactory solution of this very important point on which previous negotiations had been wrecked. He was anxious for an agreement which would be acceptable to the Egyptian Parliament. If the localities in which the troops were to be stationed were left to a commission to decide, then he was sure that the Egyptian Parliament would consider this an insuperable obstacle to acceptance and would refuse to ratify until the report of the commission had been received. One of the chief reasons for the presence of the Egyptian delegation in London was to come to an agreement on this essential point; he hoped that agreement could be reached in that room and that the British delegation would help them to attain it; anything the commission could do could be done now. He appealed to the British delegation to help them to frame a treaty which could be defended in Egypt. He and his colleagues would do their utmost to prepare a formula in which they would do their best to conciliate the views of both parties. He emphasised that the point was regarded as of vital importance by the Egyptian people.

Mr. Henderson said that before Nahas Pasha went any further he felt bound to challenge the statement which he had attributed to Mahmoud Pasha, and gave the relevant quotation from p. 15 of Mahmoud's Green Book, in which express reference was made to the "localities" in which the troops were to be stationed by agreement.

Makram Ebeid said that he had not had the statement which he had made from Mahmoud Pasha personally, since he was not on speaking terms with him, but that he had heard that Mahmoud had made the statement in private conversation. Of course, Mahmoud's supporters may have tried to propagate the meaning which he (Makram) had quoted.

Mr. Shaw said that, if both sides were agreed in principle that the Canal should be defended, then surely it must be agreed that the Canal should be defended from the best possible places. He appealed to the Egyptian delegation not to make light of the difficulties on the British side, which Mr. Henderson had mentioned at an earlier meeting. All our cards were on the table. The proposals published represented the broad limits beyond which we could not go. We were now prepared to discuss details. Let the Egyptian delegation help us. The occupation of Egypt was ended by the removal of the troops from Cairo. The Canal must be defended, and the Egyptian delegation should admit that the places which the British delegation had chosen were the best for the purpose.

Mr. Henderson then proposed that the Egyptian delegation should further examine the draft formula and communicate their views later. He enquired when Nahas Pasha would be in a position to do so.

Nahas Pasha said that the question was very delicate and required much examination. He suggested that he should send his views by Thursday, and that the next meeting should take place on Friday.

Mr. Henderson pointed out that Parliament rose on Thursday week and that the Easter holidays began on Good Friday. Would it not be possible, therefore, for them to economise the time at their disposal? Could not the Egyptian delegation consider the formula during the afternoons, since meetings only took place in the mornings? Would it not be possible to have a meeting on Thursday morning?

It was agreed that the delegation should meet on Thursday morning at 10.30 and continue discussion on other points of the proposals, and that the British committee should meet at 9.45 A.M. on the same morning.

Foreign Office, April 8, 1930.

[J 1205/4/16]

No 16.

Meeting of the British Committee on April 10, 1930, at 9.45 A.M.

[All those present at the subsequent meeting with the Egyptian delegation at 10.30 A.M. were present at this meeting.]

Mr. Henderson said that the discussions would be resumed to-day on the Egyptian counter-draft of article 9. He wished to inform the committee that, arising out of a Parliamentary question yesterday in regard to the Sudan, he had had to intimate to the Egyptians the nature of the answer which he proposed to give, and that intimation was the most alarming one which they had received since they arrived in London. He had also replied to a supplementary question asking if there was any truth in the statement that it was proposed to eliminate from the treaty any reference to the Sudan.

Mr. Murray said that Mr. Malkin had raised the following points: First, if the Egyptian formula at the beginning of article 9 were adopted, it would be necessary to consider it carefully in relation to the last article of the treaty; the last clause in the British draft was all right; but the Egyptian draft proposed that the treaty should last for twenty years and then terminate. If the Egyptian draft were adopted and the treaty expired without an agreement having been reached as regards the fitness or otherwise of the Egyptian army to defend the Canal alone, we should be left in the air. The other point was the reference of the Egyptian delegation to the convention of 1888. Mr. Malkin did not consider that the point was one of substance; the position was vague and uncertain and the convention was largely out of date, though it could not be said that it was no longer binding. Great Britain was the *de facto* but not the *de jure* heir of Turkey. It had been suggested tentatively that, by altering the wording of the clause, it might be possible to meet the

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Egyptian point of view in regard to the convention and at the same time induce the Egyptian delegation to swallow the phrase in the British draft regarding the importance of the Suez Canal as a means of communication between parts of the British Empire.

Mr. Shaw enquired whether the attention of the Egyptian delegation could not be drawn to the fact that we were now in 1930. 1888 was a very long time ago.

Lord Passfield said that members of the Commonwealth were very anxious lest there should be a possibility of the Egyptian Government being able to enforce arbitration on this clause against our will; this point arose in the first two lines of the draft.

Mr. Murray pointed out that the Egyptian delegation had emphasised at the last meeting their desire to cut out "until the high contracting parties had agreed."

Lord Passfield said that he would not fear arbitration, but that the possibility was there.

Mr. Henderson agreed that the possibility was there, but said that the Egyptians wanted power to settle the matter themselves, with which we did not agree; but when the time came and no agreement had been reached, there was nothing left but arbitration.

Lord Passfield enquired whether some form of words could not be inserted, possibly in the arbitration clause of the treaty, in order to exclude this point from arbitration altogether.

Mr. Dalton said there was some doubt whether the question would come before the Permanent Court or the League Council; he doubted whether it could come before the Court as no legal principle was involved in the question whether an army was or was not fit to do a given thing.

Sir Percy Loraine pointed out that the British draft committed us to the joint defence of the Canal; he understood that this was not contemplated in the 1929 proposals. The question of command would therefore arise; was there anything to show that the Egyptians would not claim that command.

Mr. Henderson thought that there was nothing in the proposals to exclude the presence of Egyptian troops on the Canal. He thought it would be going a long way to say that there was no room for Egyptian troops there.

Lord Thomson said that the point was very important; someone must be responsible; it must be quite clear who it should be.

Mr. Campbell said that any assertion of exclusive responsibility by us would be irreconcilable with the 1888 Convention, which places upon Egypt the right and the duty of taking the necessary measures to defend the Canal.

Mr. Murray said that in those days there were no British troops on the Canal, nor were there any on the Canal up to the outbreak of war; there were now about 2,000, and there was an air force station slightly west of the Canal.

Mr. Shaw enquired whether the words "assist in" could not be altered; these words implied a subordinate rôle. (Mr. Shaw was referring to a tentative redraft, prepared by Mr. Campbell, copy annexed, which was not proceeded with.)

Mr. Campbell explained that when drafting the article, he had endeavoured to combine our essential requirements with the possibility of Egyptian acceptance.

Mr. Shaw still thought that the phrase "assist in" represented a source of danger and said that he would prefer it to be omitted; could it be replaced by the word "ensure."

Mr. Campbell said that he had endeavoured to make the article acceptable to the Egyptians.

Mr. Shaw suggested that in doing so it had perhaps been made unacceptable to us.

Sir Percy Loraine enquired whether the defence of the Canal could be adequately assured in all contingencies unless the preparations for, and the dispositions of, that defence were settled by us.

Mr. Henderson pointed out that the draft before the meeting had been elaborated two days ago; it would possibly not be helpful to hand a draft to the Egyptians and, whilst awaiting their reply, put up another one. Did anyone present wish to convey to them the idea that we must for all time decide questions regarding the protection of the Canal; were the Egyptians to be partners or were they not? Unless we made up our minds on this point, a settlement would never be reached.

Mr. Shaw repeated that in the present state of military preparedness of the Egyptian army we must be quite clear who the responsible party is; but if the forces were placed under Egyptian command a totally impossible position would arise.

Mr. Henderson said that this point could be cleared up, but that there was nothing in the draft to imply Egyptian command, nor had he ever heard that the Egyptians would wish to assume command.

Lord Thomson stated that the Egyptian delegation wished to limit us to Port Fuad or Kantara; they would wish to put their troops in other places as well and associate themselves in the defence. We should, in fact, be gradually shouldered out, and by the time that the necessary amenities had been provided at Kantara the lease of the Canal would have expired.

Mr. Henderson objected that the Egyptians might think that we did not mean what we were saying and that we intended to remain on the Canal for ever and form a base for operations in the east on Egyptian territory; if that was in our minds it would be better to say so and fight the matter out rather than do anything which might deceive them and our own people as well.

Mr. Shaw said that no one questioned the sovereign rights of Egypt, but we were faced with hard facts; for the moment the Canal could only be defended by us; if we were looking forward to a time when the Egyptians could defend it on their own, why could they not say in a friendly way that they would allow us to keep troops in the places we wanted; their idea appeared to be to make us entirely innocuous.

Lord Thomson thought that it was perfectly fair to ask the Egyptians, as our allies, to let us have a place to assemble troops on the road to the east.

Mr. Henderson said that if that was the opinion of the committee, some means should be found of putting it up; nothing of the sort was, however, in the 1929 proposals, and he hoped that the consequences of such a proposal would be realised.

Sir Percy Loraine quoted article 9 of the 1929 proposals.

Mr. Henderson pointed out that the suggestion of a base was an entirely different idea.

Lord Thomson read article 7 of the 1929 proposals.

Mr. Henderson pointed out that this article referred to war; it had been passed and agreed upon; we were now talking about peace. It was necessary that the committee should clear their minds; he personally was only prepared to go in one direction.

Mr. Shaw agreed, but said that he wanted to go in the best possible direction.

Lord Thomson complained that the Egyptians were not treating the British Government as they should treat allies.

Mr. Henderson disagreed and thought that, considering their difficulties, they had treated us quite well.

After further discussion *Mr. Henderson* said that he would like to get back to the idea of a commission to decide the "localities to be agreed upon"; it was impossible to settle places on a map in that room.

Mr. Murray said that Port Said would be required for a convalescent camp and also transport facilities.

Lord Thomson added that it would be necessary to have an aerodrome as well at Port Fuad.

Mr. Murray agreed; but as regards Suez he doubted whether the War Office would ever wish to station forces there.

Mr. Henderson desired to call attention to one point, references had been made to the Sarwat negotiations on several occasions; article 7 of the draft treaty drawn up on that occasion read as follows:

"In order to facilitate and secure to His Britannic Majesty the protection of the lines of communication of the British Empire, and pending the conclusion at some future date of an agreement by which His Britannic Majesty entrusts His Majesty the King of Egypt with the task of ensuring this protection, His Majesty the King of Egypt authorises His Britannic Majesty to maintain upon Egyptian territory such armed forces as His Britannic Majesty's Government consider necessary for this purpose. The presence of these forces shall not constitute in any manner an occupation and will in no way prejudice the sovereign rights of Egypt."

He would like to point out that this wording had been accepted by Sir Austen Chamberlain.

Mr. Shaw explained that he did not wish to go back on previous proposals, but wanted the best possible arrangements until the further agreement foreseen in the 1929 proposals was reached; all the Egyptian proposals so far had tended to push the British troops to the east bank of the Canal, where they had neither communications nor anything else. He hoped that it would be possible to reach an agreement providing for the occupation of Ismailia and a point north of Suez, where there was hard desert for manœuvring purposes.

Mr. Henderson said that the position we had taken up seven months ago was that our forces should be maintained in localities to be agreed upon.

The Egyptian delegation was then announced.

Suggested Redraft of Article 9.

(Withdrawn by instructions of the Secretary of State.)

Until such time as the high contracting parties may agree that the Egyptian army is in a position to hold off by its own resources an attack on the Canal pending the arrival of allied reinforcements, His Majesty the King of Egypt, recognising the desire of His Britannic Majesty to assist in ensuring the liberty and the entire security of the navigation of the Canal, which is an essential means of communication between the different parts of the British Empire, authorises His Britannic Majesty to station close to the Canal, in the neighbourhood of Port Said, Port Fuad, Ismailia and Suez, or in other places to be agreed upon, such forces as His Britannic Majesty considers necessary for its defence. These forces will enjoy facilities for communications and will have access to the desert areas on either side of the Canal for purposes of training and manœuvre. The presence of these forces shall not constitute in any manner an occupation, and will in no way prejudice the sovereign rights of Egypt.

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Record of Proceedings at Sixth Meeting with the Egyptian Delegation on April 10, 1930, at 10.30 a.m.

THE following were present

Egyptian Delegation.

Nahas Pasha.
Wacyf Ghali Pasha.
Osman Moharrem Pasha
Makram Ebeid Bey.
Mustapha Sadek Bey.
Kamel Selim Bey.

British Delegation

Mr. Henderson.
Lord Passfield.
Mr. Shaw.
Lord Thomson.
Sir R. Vansittart
Sir P. Loraine.
Mr. Dalton.
The High Commissioner for New Zealand.
Major-General Sir K. Wigram.
Major-General Charles.
Mr. Casey.
Mr. Clutterbuck.
Mr. Selby.
Mr. Murray.
Mr. Campbell.
Mr. Scrivener.
Mr. Mack.

Mr. Henderson said that a very full discussion of the British redraft of article 9 had taken place at the previous meeting, but that no conclusion had been reached. He enquired whether Nahas Pasha had anything more to say about this redraft.

Nahas Pasha said that the formula which the Egyptian delegation had undertaken at the last meeting to prepare was not yet ready. He suggested that in the circumstances the meeting might proceed with the other articles.

Mr. Henderson agreed, and article 10 was then discussed.

ARTICLE 10.

British Proposal.

In view of the friendship between the two countries and of the alliance contemplated in the present proposals, the Egyptian Government, when engaging the services of foreign officials, will as a rule engage British subjects.

Egyptian Proposal.

To be omitted.

Mr. Henderson remarked that the Egyptian delegation had suggested the omission of this article. He would like to know their reasons.

Nahas Pasha explained that the reasons why the Egyptian delegation wanted the omission of this article were that it referred to officials who were really technical; Egypt now had real liberty, and consequently she would be accepting a new obligation which she had never accepted before by accepting the proposed article. He did not make these remarks in any unfriendly spirit. On the contrary, Egypt was anxious to have the initiative to choose as an act of courtesy to her ally officials from Great Britain, but he could not accept an obligation in the treaty which had not existed before and which would place Egypt in a state of inferiority from the political point of view. The proposed article concerned merely technical and not military officials, so it had nothing to do with the alliance. Egypt did not want to be bound by a hard and fast rule which was prejudicial to her political status.

Mr. Henderson said that during these discussions *Nahas Pasha* had referred to past discussions and past negotiations. On the point under discussion agreement had been reached with *Sarwat Pasha*, and a clause had been agreed upon with him, which stated that the Egyptian Government, when engaging the services of foreign officials, would as a rule give preference to British subjects. "Nationals of other Powers will only be engaged if no British subjects possessing the necessary qualifications and fulfilling the requisite conditions are available (article 8 of the Chamberlain *Sarwat* draft). If this was acceptable to *Sarwat*, surely it could not be very objectionable to *Nahas Pasha* and his colleagues. One or two alterations could perhaps be made in the wording of the article, but the British proposals had been before the Egyptian people for seven months, and, so far as he was aware, no exception had been taken to this article. He thought, therefore, that it might be permitted to remain in some form. In order to make things easier for the Egyptian delegation, he would be prepared to agree that the essence of the article should be contained in a note annexed to the treaty if it was straining a point to insert it in an article of the treaty.

Nahas Pasha pointed out that the *Sarwat* Agreement did not bind the present delegation.

Mr. Henderson said that he had not implied that, but that he had quoted the *Sarwat* draft as the Egyptian delegation had referred so often to past documents.

Nahas Pasha said that his party had turned down the *Sarwat* proposals, which on this point did not represent Egyptian feelings; he would not like to make the *Sarwat* draft a subject of discussion. *Mr. Henderson's* proposal did not meet the delegation's point of view, since the notes which he proposed would have the same force as the treaty itself and would convey the impression that a new situation had been created which did not exist before, and that the treaty had not been concluded between equals; this would give rise to political difficulties in Egypt. If the question were left to the courtesy and goodwill of Egypt, England would be giving Egypt an opportunity of showing her courtesy and goodwill. He repeated that civil officials had nothing to do with the treaty, and that the insertion of the clause would convey an impression of inferiority. All would be well if the matter were left to the goodwill of Egypt. Once the treaty was concluded, as he hoped and trusted it would be, then there would be a moral obligation on both sides to exchange benefits. Why insert it in the treaty?

Mr. Henderson replied that it had been said more than once that we could not obliterate the past; a lot of people in this country felt that the proposals of His Majesty's Government had gone too far. Lord Brentford, for example, represented a section of the community which had representatives in Parliament, and while Lord Brentford and his followers might, perhaps, be prepared to accept the treaty with certain safeguards, they would certainly not be prepared to allow some other foreign Power to get in; *Mr. Henderson* could mention one or two countries which were only too ready; there was such a thing as peaceful penetration. Surely it was no hardship for the present or any other Egyptian Government merely to signify their intention of engaging officials, provided always that they were competent, in this country. If they had nothing more serious than that to defend in their Parliament, they would be well off, and he would remind the Egyptian delegation that they had no very formidable opposition to meet in Parliament when they got back.

Nahas Pasha pointed out that the real object of both sides was to reach a just and feasible solution, without regard to parliamentary opposition; the fact of their being there and of their admission of certain things showed that they were ready to stand up to opposition. But they had to take into account the feelings of their own people, on whom this article would impose a new obligation which had not been accepted since 1880. He was glad that nothing untoward happened to Lord Brentford yesterday, but he thought that the kind of spirit in which Lord Brentford spoke was not in accord with the spirit of fair play which prevailed in Great Britain; he was sure that *Mr. Henderson* would be able to meet Parliamentary criticism. The points which he wished to emphasise were, firstly, that this was a new obligation, and, secondly, that the British delegation should take into consideration that the courtesy which Egypt would like to be able to show was subject to no dispute. The danger of peaceful penetration would not exist; Egypt

now had technical men of her own and needed very few, so that it was not worth while saying that foreign officials would be taken from one country only, since none would be needed; the number of technical officials employed was very small, almost a minimum. National dignity would prevent Egypt from allowing peaceful penetration by a foreign State which she was not prepared to allow in the case of her ally. Egypt's goodwill and courtesy would make her go to Great Britain rather than to France or Germany, or any other Power. The article therefore served no real practical purpose. He appealed, therefore, to the British delegation to give Egypt a chance as an ally of acting in the spirit of the treaty.

Mr. Henderson said that the discussion did not seem to be taking the meeting any further towards its goal. He proposed, therefore, to return to the matter at another sitting.

The discussion then turned on article 11.

ARTICLE 11

British Proposal.

His Britannic Majesty recognises that the capitulatory régime now existing in Egypt is no longer in accordance with the spirit of the times and with the present state of Egypt.

His Britannic Majesty accordingly undertakes to use all his influence with the Powers possessing capitulatory rights in Egypt to obtain, in conditions which will safeguard the legitimate interests of foreigners, the transfer to the Mixed Tribunals of the jurisdiction of the existing consular courts, and the application of Egyptian legislation to foreigners.

Egyptian Proposal.

His Britannic Majesty recognises that the capitulatory régime now existing in Egypt is no longer in accordance with the spirit of the times and with the present state of Egypt.

Accordingly, His Britannic Majesty accepts in principle the suppression of the jurisdiction of the existing consular courts and the application of Egyptian legislation to foreigners.

(In a separate note will be specified the functions of the Mixed Tribunals and the powers of its General Assembly.)

For convenience of reference the text of the exchange of notes regarding the Capitulations as proposed last August is inserted

Capitulations.

BRITISH NOTE.

Your Excellency,

1 Paragraph 11 of the proposals provides as follows

"His Britannic Majesty recognises that the capitulatory régime now existing in Egypt is no longer in accordance with the spirit of the times and with the present state of Egypt.

"His Britannic Majesty accordingly undertakes to use all his influence with the Powers possessing capitulatory rights in Egypt to obtain, in conditions which will safeguard the legitimate interests of foreigners, the transfer to the Mixed Tribunals of the jurisdiction of the existing consular courts, and the application of Egyptian legislation to foreigners."

2. It will be useful if I explain to your Excellency the lines on which I think this reform of the capitulatory régime might well proceed, as I shall be prepared to support the efforts of the Egyptian Government to conclude arrangements with the Powers on these lines when a treaty based on the proposals comes into force.

3. It was hoped in 1920, when negotiations were in progress between the British and Egyptian Governments, that arrangements might be made for the closing by foreign Powers of their consular courts in Egypt. Draft laws were accordingly prepared in that year extending the existing jurisdiction of the Mixed Tribunals, and enabling them to exercise all the jurisdiction now exercised by the consular courts.

4. I shall be prepared to agree to the utilisation of those draft laws as the basis of the reform of the capitulatory régime if foreign Powers are willing to transfer to the Mixed Tribunals the jurisdiction of their consular courts.

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5. On points of detail many changes will no doubt be required. These must be discussed by experts. There are, however, certain modifications which will, I think, be necessary in any event, and which I desire to take this opportunity of pointing out to your Excellency.

6. It may be difficult for some Powers to agree to the transfer to the Mixed Tribunals of all suits relating to the "statut personnel" of their nationals. Transfer in the case of these questions should be facultative. Jurisdiction in such matters should remain with the consular authorities unless an agreement is made between the Egyptian Government and the foreign Government concerned for its transfer to the Mixed Tribunals. I anticipate agreement that the Mixed Tribunals should exercise jurisdiction in these matters in cases where British subjects are concerned.

7. In the case of pardons or remissions of sentences imposed on foreigners, and also in connexion with the execution of capital sentences imposed on foreigners, the Minister of Justice will consult the judicial adviser, so long as that official is retained, before tendering his advice to the King.

8. I recognise that the conditions in which the Capitulations are at present applied as regards the power of the Egyptian Government to legislate for or to impose taxation on foreigners are no longer consistent with modern conditions. I should be prepared to agree that in future any assent which is necessary before Egyptian legislation, including fiscal legislation, is applied to foreigners shall be given by the General Assembly of the Mixed Tribunals, except in the case of legislation relating to the constitution or jurisdiction of the Mixed Tribunals themselves, which should not come into force until it has been approved by the Powers. It should be the duty of the General Assembly of the Mixed Tribunals to satisfy itself that the legislation in question is not inconsistent with the principles generally adopted in modern legislation which is applicable to foreigners, and, with particular relation to legislation of a fiscal character, that it does not inequitably discriminate against foreigners, including foreign companies.

9. An extension of the criminal jurisdiction of the Mixed Tribunals will necessitate the preparation and promulgation of a new Code of Criminal Procedure. The draft laws prepared in 1920 contain certain provisions of importance on this subject of criminal procedure (articles 10-27 of Law II, draft of the 18th April, 1920), and your Excellency will no doubt agree that the new Criminal Code should not diverge from the principles laid down in these articles.

10. There are certain matters as to which it will be necessary for agreement to be reached between the Egyptian Government and His Britannic Majesty's Government in the United Kingdom, but I do not think it necessary to do more at the moment than mention these subjects.

11. The first is the definition of the word "foreigner" for the purposes of the proposed extension of the jurisdiction of the Mixed Tribunals. I understand from your Excellency that the codes now enforced by the native courts in Egypt subject to the native courts all persons in Egypt, other than those who by law, usage or treaty are withdrawn from their jurisdiction. I am content to accept this principle provided that it is understood that all foreigners who have enjoyed the benefit of the capitulatory régime in the past will fall under the jurisdiction of the Mixed Tribunals irrespective of changes of sovereignty effected after the war of 1914-18.

12. The second is the increase in the personnel of the Mixed Tribunals which will be necessitated by the proposed extension of their jurisdiction, and, as part of this question, the new functions of the procureur général of the Mixed Tribunals and the staff which will be necessary to enable him to discharge those functions satisfactorily. The judicial adviser will, so long as that official is retained, be consulted with regard to the appointment of foreign judges in the Mixed Tribunals and of foreign members of the parquet, if any.

EGYPTIAN NOTE.

Sir,

1. I have the honour to acknowledge the receipt of your note of to-day's date, in which you informed me of the lines upon which His Majesty's Government in the United Kingdom consider that the reform of the capitulatory régime might proceed, and drew my attention to certain particular considerations to which you attach importance.

2. I am happy to state that the particular proposals to which you referred are in accordance with the intentions of the Egyptian Government, who are also in

general agreement with His Britannic Majesty's Government as to the lines on which the reform of the capitulatory system should proceed.

3. As regards the definition of the word "foreigner," I would observe that, while the Egyptian Government would have no objection to the civil and criminal jurisdiction of the Mixed Tribunals including foreigners who possessed capitulatory privileges before the war of 1914-18, those foreigners who do not possess and never have possessed those privileges must evidently be subject to the jurisdiction of the native courts.

Mr. Henderson pointed out that the Egyptian delegation had accepted the first paragraph of the British article, but had made a change in the second paragraph. This article, however, depended on two extensive notes which were annexed to the proposals, and perhaps the Egyptian delegation would give their views also on the notes because this was a very important question.

At this stage of the proceedings Mr. Henderson and Sir R. Vansittart left, as they had to attend another meeting elsewhere. Lord Passfield took the chair.

Nahas Pasha said that the slight modification which had been introduced was based on the principle that the ultimate object of the Egyptian Government was the elimination of the Capitulations; the Egyptian delegation were prepared to agree as a provisional measure that the jurisdiction of the Mixed Courts should be enlarged to replace the jurisdiction of the Consular Courts in criminal matters and matters of personal status. As regards the principle of the application of Egyptian legislation to foreigners, the Egyptian delegation agreed that the General Assembly of the Mixed Courts should have the powers of assent mentioned in the notes, and that its powers should therefore be widened. They meant that the two principles of suppression of consular jurisdiction and the application of Egyptian legislation to foreigners had been accepted, and they thought fit to bring out in the treaty the principles which had been agreed upon by both sides. With regard to the notes, he agreed that in the event of the suppression of the Consular Courts, their jurisdiction should be transferred provisionally to the Mixed Courts. The Egyptian delegation also agreed that the conditions of such transfer should be arranged between each Power and Egypt separately, as provided for in the note. But, as England had accepted in the note the transfer of jurisdiction, the Egyptian delegation wished to point this out in their formula. The Egyptian delegation also accepted the principle that the powers of the General Assembly should be extended to cover the legislation mentioned in the note, subject to the provisos stated therein, with one small change to make it more explicit, namely, that with regard to financial legislation there would be no inequality between foreigners and Egyptians. The wording of the notes was too wide; the question of equality should be emphasised in order to make the position more explicit. With regard to the code of criminal procedure, it was premature to say anything now, since the code was under consideration by committees in Egypt, and had not yet been drafted. When discussions took place with foreign Powers, the code which would be applicable to both parties would doubtless be submitted to those Powers by the Egyptian Government. There was therefore no necessity to bind Egypt now.

Lord Passfield enquired whether the principles relating to the code were admitted, as the Egyptian delegation had said they need not discuss the codes until they were ready. The point was that the British delegation could not omit now conditions which had been laid down before; the new code should not diverge from the principles laid down in the British note.

Nahas Pasha said that these were matters of detail, and that no practical purpose would be served by going into them. The codes would be submitted to foreign Powers and all their provisions would be discussed. Why, therefore, forestall matters?

Lord Passfield thought there was agreement in principle on article 11, and that the only question was one of expression. The question did not rest solely between Great Britain and Egypt, and His Majesty's Government could do no more than indicate the lines on which they were prepared to support the transfer of jurisdiction. Foreign Powers would only agree to the transfer and the application of Egyptian legislation to foreigners in conditions which would safeguard the legitimate interests of foreigners. It was immaterial whether these provisions were stated in an article of the treaty or in a note, but His Majesty's Government could

not undertake to agree to the omission of the second paragraph of the British article 11 unless it was clear that the omission did not imply that the legitimate interests of foreigners would not be safeguarded. It must not be understood that His Majesty's Government proposed to abandon the rights of British subjects if other Powers refused; he hoped that other Powers would agree, but the wording of the Egyptian formula suggested that His Majesty's Government surrendered their rights irrespective of what other Powers did; this was not the case. There were also other questions such as those concerning personal status and offences by the British armed forces; these were questions for lawyers; he suggested therefore that article 11 and the notes should be referred to the Drafting Committee, since they were too complicated to discuss at the full meeting, and there was already agreement in principle.

Nahas Pasha pointed out that the Egyptian draft was intended to bring out two principles which had been agreed. *Lord Passfield* had indicated a departure from the terms of the British note by saying that England would not accept the transfer unless the other Powers agreed. *Nahas Pasha* quoted paragraph 6 of the British note, and said that the last sentence: "I anticipate agreement that the Mixed Tribunals should exercise jurisdiction in these matters in cases where British subjects are concerned," was understood by the Egyptian delegation to mean that England from now admitted the transfer of jurisdiction.

Lord Passfield pointed out that the penultimate sentence of that paragraph, which read "jurisdiction in such matters should remain with the consular authorities unless an agreement is made . . ." made it clear that His Majesty's Government did not undertake to agree in advance before consultation with other Powers had taken place. They were prepared, as the second paragraph of article 11 stated, to support Egypt in her negotiations with other Powers, and were ready and eager to assist Egypt to come to agreements with them, but His Majesty's Government would not stand alone.

Nahas Pasha said that it seemed clear to the Egyptian delegation that England had anticipated her own agreement and that the matter was settled so far as England was concerned. The Egyptian delegation understood the words "I anticipate agreement" to mean that England agreed.

Lord Passfield read out article 11 of the British proposals. The article was a declaration of principle, and the note went on to explain the lines on which His Majesty's Government thought the reform of the capitulatory régime might proceed. The only thing which His Majesty's Government undertook to do was to use all their influence with the Powers. This they would, of course, do, but the Egyptian delegation must not think that if other Powers refused His Majesty's Government would agree. Such a proposal could not be carried through Parliament, nor could His Majesty's Government defend it. There was no good in misleading the Egyptian delegation on this point.

Makram Ebeid again drew attention to the phrase "I anticipate agreement."

Lord Passfield said that His Majesty's Government did anticipate agreement, and would not make difficulties, but they did not say that they consented if other Powers refused. It would be impossible to get Parliament to agree to such a proposal.

Nahas Pasha enquired whether, supposing some Powers accepted and others did not, it was admitted that England would accept.

Lord Passfield said that it would be impossible to put words in the treaty to define that position; he could not say now; it depended on what Powers agreed and what number of Powers; but the Egyptian delegation could rest assured that Great Britain would be among the first to agree.

Mr. Murray pointed out that the meeting was discussing at present only the transfer of questions relating to personal status, *i.e.*, marriage, divorce, inheritance, &c.; it was not discussing the abolition of the Capitulations or the Consular Courts, or anything else, since paragraph 6 of the British note only dealt with questions of personal status.

Nahas Pasha asked whether he was to understand that the British reserve applied only to questions of personal status.

Lord Passfield replied in the negative. He pointed out that all His Majesty's Government undertook was to use their influence with the Powers, and they had explained how they thought the transfer of the jurisdiction of the consular courts could best be effected. *Nahas Pasha* had quoted one sentence which referred only to questions of personal status on which His Majesty's Government anticipated agreement, but they could not say that they would act before other Powers on any point. *Nahas Pasha* was aware of parliamentary difficulties here, and must know that Parliament would not agree to British subjects being alone deprived of recourse to their Consular Courts, and being subject to the Mixed Courts. The Egyptian delegation must not be misled on this point.

Nahas Pasha declared that it had been understood everywhere in Egypt that England accepted the transfer now irrespective of the action of other Powers. The use of the word "facultative" in paragraph 6 did not mean that Egypt was bound by the refusals of other Powers. In any case, the Egyptian delegation did not oppose the British draft in principle. It was essential that England should give an assurance now. Its application would be a matter for settlement later; there could be no objection to that. England's acceptance of the principle would be a real help to Egypt with foreign Powers.

Lord Passfield pointed out that the British views were expressed in the first paragraph of the British article 11; the second paragraph of the Egyptian draft was new, and we could not agree to its inclusion in the treaty. If the British draft had been adopted and ratified, negotiations would be proceeding now, and Great Britain might have agreed already to the conditions of transfer; but even then the transfer would not be operative until other Powers had agreed. His Majesty's Government could not contemplate a position where British subjects would be *de facto* or *de jure* in an inferior position to the nationals of other Powers. This was conclusive; no such suggestion could be carried through Parliament. The notes were contingent on article 11, and they must eventually be referred to the drafting committee. He suggested that that committee should consider the changes of wording in the notes which the Egyptian delegation suggested, but it must be understood that nothing could be mentioned in the treaty which would put British subjects in a position of inferiority.

Nahas Pasha said that the Egyptian delegation were really sorry that their British ally thought she would be put in a position of inferiority if some Powers accepted transfer and others refused, if England did not take the first step, then who would? It was natural that Egypt's ally should take the first step.

Lord Passfield explained that His Majesty's Government might come to an agreement, but that that agreement would not be operative until other Powers had agreed.

Makram Ebeid said that the second sentence of the Egyptian draft was meant to imply that the principle had been agreed.

Lord Passfield retorted that the position was very clearly stated in the British article 11; if the Egyptian formula meant nothing more than what was there stated, then there was agreement in principle. He thought, however, that the wording of the Egyptian draft went much too far.

Nahas Pasha explained that the second sentence of the Egyptian draft was really meant to contain the principle of the second sentence of the British draft; the Egyptian delegation would prepare a draft note for consideration, since there were some questions relating to officials mentioned in the British note which were not acceptable.

Sir P. Loraine pointed out that if His Majesty's Government's acceptance in principle was regarded as being general, then the other foreign Powers could accuse His Majesty's Government of having surrendered their rights in addition to British rights, and His Majesty's Government would be exposed to diplomatic representations to which they would be unable to stand up; if, on the other hand, His Majesty's Government's acceptance was particular, and concerned British subjects only, they would then be placing British subjects in a position of inferiority compared to those of other countries.

Nahas Pasha said that in the Egyptian draft of the article and the note the position would be made very clear.

Mr. Shaw said that so far as he could see there was no disagreement on the question of principle. In the first paragraph of the British draft it was stated that the capitulatory régime was out of date; that could not be made plainer. The second paragraph declared that His Majesty's Government were ready to use their influence with other Powers; what more than that could be expected?

Lord Passfield suggested that the question might be postponed until the Egyptian text had been presented.

Nahas Pasha agreed.

The discussion then turned on article 12.

ARTICLE 12.

British Proposal.

In view of the friendship between the high contracting parties and of the alliance contemplated in the present proposals, His Britannic Majesty will be represented at the Court of His Majesty the King of Egypt by an Ambassador, duly accredited, and His Majesty the King of Egypt will reserve the highest diplomatic rank at his court to the representative of His Britannic Majesty.

His Majesty the King of Egypt will be represented at the Court of St. James's by an Ambassador.

Lord Passfield pointed out that the Egyptian draft had proposed that the special precedence of the British representative should be abandoned; this was inconsistent with Egypt's position as an ally of Great Britain; no other foreign Power would be Egypt's ally.

Nahas Pasha said that the precedence which it was proposed to attach to the British representative would not agree with international practice; the fact of being allies gave no precedence; there was, however, no practical difference now, as the British Ambassador would be the first Ambassador to be appointed, but for the future the usual practice of "ancienneté" should prevail.

Mr. Shaw pointed out that that meant that if the British Ambassador were called away in a month's time the precedence of the British representative would be lost if an Ambassador of another country had been appointed in the meantime.

Lord Passfield said that the question would not arise if the Egyptian Government did not contemplate exchanging Ambassadors with any other State.

Nahas Pasha explained that Egypt required to be bound by the ordinary rules of diplomatic procedure and not to be obliged to make any exception.

Lord Passfield said that it would be very difficult for His Majesty's Government to agree to give up this position, since such action would provoke an outcry in Parliament; it was necessary to consider the future when other Ambassadors might be appointed; it seemed to him that for the twenty-five years of the duration of the treaty it was essential that the British representative should, as a mark of the alliance, be in a different position from other representatives and not junior to them; he did not want to put this in such a way as to call for an undertaking by Egypt; as it was put in the British article it merely stated a fact and had called forth no remonstrances from any other Power or from Egypt. It was of very great importance to ensure that the British representative should have precedence for the future, but this might be conveyed in some other way.

Nahas Pasha said that the rules governing matters of this kind were contained in the regulations annexed to the Vienna Congress Treaty of 1815 and the Règlement of Madrid of 1875; article 6 of the latter instrument laid down that relationship to a Royal house or political alliances conferred no special precedence. The proposed article would put Egypt in difficulties with foreign Powers.

Egyptian Proposal.

His Britannic Majesty and His Majesty the King of Egypt will be represented at their respective courts by Ambassadors duly accredited according to ordinary diplomatic practice.

Lord Passfield pointed out that the practice was that where a papal nuncio was accredited, even in Protestant countries, such as Germany, he should be doyen of the Diplomatic Corps. His Majesty's Government did not ask Egypt to give any special position to the British representative, but they asked Egypt not to receive an Ambassador from any other State. He pointed out that Switzerland received a French Ambassador, who was the only Ambassador, at Berne; Switzerland had been an independent country for 300 years; France did not, however, accept an Ambassador from Switzerland; the British draft provided for an exchange of Ambassadors with Egypt; the rules of diplomatic procedure were subject to mutual agreement; no obligation rested upon an independent State to accept an Ambassador from another Power. By the British undertaking to accept an Egyptian Ambassador, Egypt was being put in a higher position than Switzerland in relation to France.

Nahas Pasha explained that what the Egyptian delegation wanted to emphasise was that there should be no departure from the ordinary rules. The examples which had been cited did not constitute such a departure; it was recognised on all sides that the representative of the Pope took precedence in the country to which he was accredited; as regards Switzerland, there was no special treaty binding her not to accept Ambassadors from other Powers, and not to appoint an Ambassador to the French Republic; the fact that the Swiss representative in France was a Minister was just a fact which might be due solely to the question of expense; so far as he knew, there was nothing to prevent Switzerland sending an Ambassador. If Egypt admitted a British Ambassador and no other Ambassador, this would be contrary to the principles of international law. In this connexion he quoted Professor Bryce, who had asserted that it was the exclusive right of a country to name the rank of the Envoy which it sent to another State.

Lord Passfield remarked that this opinion was not complete, since it was open to a Power to refuse to accept an Envoy.

Nahas Pasha said that Professor Bryce was very definite on that point.

Lord Passfield pointed out that a Power could refuse to receive any representative it wished.

Nahas Pasha replied that it could refuse in time of war, but with a friendly nation this could not be done.

Lord Passfield said that he did not accept *Nahas Pasha's* remarks as a complete statement of diplomatic procedure; the point was whether Egypt wished to receive Ambassadors from other Powers or not; the British delegation thought that Egypt should receive an Ambassador from Great Britain, but not from other Powers. He would like to know what were the intentions of the present Egyptian Government in this respect.

Nahas Pasha said that he had really no other wish than that Egypt should act in accordance with the ordinary rules of diplomatic procedure.

Lord Passfield said that that was not the point; firstly, it rested with the Egyptian Government to say whether they wished to receive Ambassadors from other Powers, and, secondly, did Egypt wish or not that the British representative should have precedence as a mark of the alliance? As it was now nearly one o'clock, the Egyptian delegation might prefer to talk the point over and discuss it at the next meeting. The British delegation did not suggest that Egypt should do anything contrary to international practice, but that she should state her intentions towards her ally.

The meeting then adjourned.

*Record of Proceedings at Seventh Meeting with the Egyptian Delegation on
April 10, 1930, at 5 P.M.*

The following were present :—

Egyptian Delegation.

Nahas Pasha.
Wacyf Ghali Pasha.
Osman Moharrem Pasha.
Makram Ebeid Bey.
Mustapha Sadek Bey.
Kamel Selim Bey.

British Delegation.

Mr. Henderson.
Lord Passfield.
Mr. Shaw.
Lord Thomson.
Sir R. Vansittart.
Sir P. Loraine.
Mr. Dalton.
The High Commissioner for New Zealand.
Major-General Sir K. Wigram.
Major-General Charles.
Major R. G. Casey.
Mr. Clutterbuck.
Mr. Selby.
Mr. Murray.
Mr. Campbell.
Mr. Scrivener.
Mr. Mack.

Mr. Henderson said that he understood that a discussion was taking place on article 12 when the meeting rose this morning. He enquired whether it was the desire of the Egyptian delegation that the discussion on article 12 should be continued.

Nahas Pasha replied in the affirmative. He said that the article was a matter of pure form; the British draft would mean that Egypt would be put in an undoubted position of political inferiority, which should not be the result of an alliance; the British proposal could be interpreted in no other way; as he had said this morning, the first British Ambassador would have actual precedence in accordance with the ordinary rules of diplomatic procedure.

Mr. Henderson said that he could not understand how Egypt would be put in any position of inferiority by giving the British Ambassador precedence over other foreign representatives; surely it was not too much to ask that Egypt's own ally should have precedence, and that when Sir Percy Loraine was no longer in Egypt the British Ambassador would have precedence over other Ambassadors, who he hoped would be appointed. The position of other countries who might have Ambassadors was undoubtedly affected, but Egypt's position was not.

Nahas Pasha pointed out that, as he had said at this morning's meeting at some length, diplomatic precedence was regulated by the Act of the Congress of Vienna and by international practice; if there was any departure from the usual procedure Egypt would be in an inferior position; there was no reciprocal obligation; the question was one of formality, but would be interpreted as implying Egypt's political inferiority.

Mr. Henderson remarked that it was very strange that this had not struck the negotiators last July. He had used Lord Milner's proposals very much in offering to Egypt his proposals of last July; Lord Milner had proposed "on account of the special relations between Great Britain and Egypt created by the alliance the British representative will be accorded an exceptional position in Egypt and will be entitled to precedence over all other representatives." Why should not both sides agree on this point to take Lord Milner's wording?

Nahas Pasha said that Lord Milner's scheme had been submitted to the nation by Zaghlul Pasha and his colleagues, of whom he, Nahas, was one, and had been refused.

Mr. Henderson said that this remark tempted him to ask why his proposals had not been submitted to the nation.

Nahas Pasha said that it was in the interest of the proposals that this had not been done.

Mr. Henderson said that His Majesty's Government had thought that it would be better that the proposals should be submitted to the nation, but they had taken Nahas Pasha's word on this point and had left it to him.

Nahas Pasha explained that the reason for his not submitting Mr. Henderson's proposals to the nation was that the pros and cons of the various points in the proposals would have been discussed and that the position would have been very bad indeed.

Mr. Henderson reminded him that opinion here took the opposite view, and held that the proposals had not been submitted because the Egyptian delegation did not want to be committed. He pointed out that since Lord Milner's time he and all those, who, like him, wanted an agreement with Egypt, had done their best on the lines advocated by Lord Milner. On a matter of this kind why not get away from the proposals made to Mahmoud Pasha and back to Lord Milner?

(At this stage *Mr. Wilford* left in order to keep another engagement.)

Nahas Pasha said that when the Milner Report was submitted the consensus of opinion in Egypt was that the British representative should have no special position, since this would imply Egypt's inferiority; public opinion in Egypt was very strong on that point; the point was one of form on the British side, but one of inferiority on the Egyptian side; he therefore hoped that the British delegation would concede this minor matter of form. With regard to Mr. Henderson's remarks on the submission of the proposals to the country, Nahas Pasha pointed out that this would have involved discussion on all aspects of the proposals; he did not want his hands tied in advance, and wanted to be able to defend himself what he had accepted. Public opinion had given the delegation a very friendly send-off from Egypt, and this might not have been the case if the proposals had been submitted to the country.

Mr. Henderson remarked that he did not mind saying that the phrase "position of inferiority" had been used several times; he could not see why; the British delegation had met the Egyptian delegation on several important points; in our relations with the Egyptian delegation he felt that, as allies, Great Britain should meet with more consideration from the Egyptian delegation, but on no major point which had arisen had the Egyptian delegation been prepared to meet the British view; were they not prepared to say that, as between Great Britain and France, or as between Great Britain and Germany, they were ready to grant their ally precedence? Their refusal would create a very bad impression; he could not understand the Egyptian attitude. Mr. Henderson asked Nahas Pasha to mention one point in these negotiations on which he had given way; he could mention many on which the British delegation had given way.

Nahas Pasha, while thanking Mr. Henderson for his sympathetic spirit and for the concessions which he had made, pointed out that Egypt had also made concessions; he had to take into consideration the position in Egypt; however, in order to make things easy for the British delegation, he was ready to make the further concession that the British Ambassador, as the first Ambassador appointed, would have the right of precedence over other Ambassadors within the ordinary rules of diplomatic procedure, and this would apply for the duration of the treaty. He would, however, like this to be covered by a note and not by an article of the treaty.

Sir R. Vansittart enquired what precisely was meant by "within the ordinary rules of diplomatic procedure."

Makram Ebeid made a somewhat confused reply, but was understood to say that the British Ambassador would have his seniority and the same rights and duties as an Ambassador of any other country, but he would also have precedence in addition.

Mr. Henderson said that he was prepared to accept this suggestion provided that the note which the Egyptians proposed was satisfactory; he suggested that in drafting the note the Egyptian delegation should get away from his proposals to Mahmoud Pasha and use Lord Milner's wording, which he had already quoted.

Nahas Pasha said that he would not refer to the Milner Report or use Lord Milner's words "special position."

Mr. Henderson retorted that Lord Milner's words were "special relations"; let there be no misunderstanding; surely the British representative had a special position; this special position did not affect Egypt, but did affect all other countries; he would await the Egyptian note.

Nahas Pasha explained that in order to avoid difficulties in the Drafting Committee he wanted to make it clear that the Egyptian note would say "that as the British Ambassador was the first to be appointed we will make his *ancienneté* continue for his successors."

Mr. Henderson agreed.

Nahas Pasha asked that discussion on article 13 (Sudan) should be postponed.

Mr. Henderson agreed.

Mr. Henderson said that both delegations appeared to be agreed on the texts of articles 14 and 15.

Nahas Pasha replied in the affirmative.

The texts of these articles are as follows :—

14.

Nothing in the present proposals is intended to or shall in any way prejudice the rights and obligations which devolve, or may devolve, upon either of the High Contracting Parties under the Covenant of the League of Nations or the Treaty for the Renunciation of War signed at Paris on the 27th August, 1928.

15.

The High Contracting Parties agree that any difference on the subject of the application or the interpretation of the provisions of the present proposals which they are unable to settle by direct negotiation shall be dealt with in accordance with the provisions of the Covenant of the League of Nations.

Discussion then turned on article 16.

British Proposal.

At any time after the expiration of a period of twenty-five years from the coming into force of a treaty based on the above proposals such modification of its terms as may be deemed appropriate in the circumstances as they then exist may be made by agreement between the High Contracting Parties.

Mr. Henderson pointed out that the Egyptian delegation had suggested a very important change. He read out both drafts and pointed out that the effect of the Egyptian draft was to make the treaty expire after twenty years unless it was renewed or modified; the intention of the British draft was that the treaty would remain in force for twenty-five years and continue unless one party or the other asked for its modification; he asked for an explanation as to why the Egyptian delegation wanted this important change.

Nahas Pasha explained firstly with regard to the change from twenty-five to twenty years that he thought that a period of twenty years was sufficient for both parties to know and understand and have confidence in each other; he hoped that the alliance would have proved so efficient and sincere that when both parties asked for a renewal and the withdrawal of some restrictions the whole treaty would be reconsidered and modified accordingly by mutual consent.

Mr. Henderson said that he was prepared to ask his committee to agree to reduce the period to twenty years if the Egyptian delegation would accept the remainder of the British clause.

Nahas Pasha explained that the point about the latter phrase was that he hoped that after twenty years it would be sufficiently clear that we could have confidence in each other and would then talk on different terms in a spirit of mutual friendship; both parties would have known each other by then and would have confidence in each other.

Mr. Henderson said that this was exactly what the British draft said; it read: "such modifications of its terms as may be deemed appropriate in the circumstances as they then exist"; we did not know those circumstances to-day; we should, however, know them in twenty years' time, and it should then be possible to agree on considerable modifications.

Nahas Pasha said that the British formula meant a lack of mutual confidence, and that the treaty would continue *bon gré mal gré*, and might even continue in spite of Egypt.

Mr. Henderson pointed out that there was a remedy if one party refused, namely, the League of Nations; Egypt could go to the League of Nations and say that Great Britain had agreed to "such modifications . . ." and now after twenty years refused to touch the treaty.

Nahas Pasha said that he hoped that each side would put its house in order without going to the League of Nations.

Mr. Henderson agreed, and said that if we were prepared to trust Egypt then Egypt should be prepared to trust us. Did Nahas Pasha suppose that the British people were going to put themselves in the position at the end of twenty years of having no treaty? He could not go to the House of Commons and ask them to take up such a position.

Lord Passfield pointed out that there was no question of inferiority; the article was the same for both sides.

Mr. Shaw said that, in his reading, the treaty laid down in the clearest possible language that Egypt was in every respect a fully self-governing country; Egypt's development in twenty years' time would, he hoped, be such that it would be impossible to dream of any nation in the world saying that they would not be prepared to negotiate with Egypt.

Mr. Henderson reminded *Nahas Pasha* that both parties would have been members of the League of Nations for twenty years and Egypt could take her case to the League, and if she did take it before the League Council, she would be entitled to have an Egyptian representative at the table to state Egypt's case; the point at issue could go to arbitration.

Mr. Shaw said that there was not the slightest ground for assuming that the League of Nations would be called in.

Mr. Henderson reminded the Egyptian delegation that he was proposing to cut five years off the proposal which he had laid before the House of Commons.

(At this stage *Lord Passfield* withdrew to keep another engagement.)

Nahas Pasha pointed out that the general rule in all treaties was that they should have a fixed duration; he knew of no treaty which was not for a fixed period; special care had been taken in the Egyptian draft to show the possibility of renewal and modification; after twenty years the mutual relations between the two countries would be stronger; could not *Mr. Henderson* tell the House of Commons that every treaty had a duration, and that he had, therefore, accepted the Egyptian wording? The treaty could be renewed.

Mr. Henderson said that, if the last statement were correct, there would be no objection to the Egyptian draft; but it was not correct. The treaty would come to an end, and he could not accept that position; if the Egyptian delegation wished to add a form of words which said that a request for modifications would not be reasonably withheld, he would recommend to his committee that it should be done; after a period of twenty years he wanted to proceed by mutual agreement; he was prepared to agree to twenty years, so why should not the Egyptian delegation allay suspicion that there was any doubt about the treaty ending completely? With all kindness, he could not make himself responsible for accepting the complete termination of the treaty after twenty years; the two parties would meet in twenty years, and it could be laid down in the document that the consent of either party would not be withheld unreasonably; at the end of the time one party would give notice for reconsideration; he expected that Egypt would be that party; if Great Britain acted stupidly she would make obstacles, and to guard against such a contingency he was ready to insert that when notice of reconsideration was given the consent of the other party would not be reasonably withheld. Would it assist the Egyptian delegation if notice were given twelve months before the expiration of the treaty and a conference would automatically be held in order to see what changes or modifications were desired?

Nahas Pasha said that what the Egyptian delegation wanted to be understood was that the treaty would not be everlasting in form; he hoped that the spirit of the treaty would be everlasting; any provision that there should be no change in the treaty without agreement implied a protectorate.

Mr. Henderson said that he thought we were discussing an alliance and not a protectorate.

Makram Ebeid said that an alliance could cover anything, even a protectorate, but any formula implying that modifications could only be accepted by agreement was not acceptable to the Egyptian delegation; such a clause would be in contradiction to other treaties; the delegation did not want the treaty to be dead after twenty years, but that it should be as continuous and lasting as anything, but not that it should be permanent with no reasonable chance of modification. (In the course of these remarks *Makram Ebeid* thumped the table excitedly.)

Mr. Henderson said that he had not noticed that any reply had been made to his suggestion that a conference should automatically be held. He would like to know if that suggestion was welcomed by the Egyptian delegation.

Nahas Pasha said that what he wanted was that whatever formula was agreed would not impose a permanent treaty on Egypt; it was vital that no clause of the treaty could be construed as involving a protectorate; it was a question of drafting really in order to put it beyond doubt that the liberty of both sides remained intact.

Mr. Henderson thought that his offer and the last remarks of *Nahas Pasha* were sufficient for the preparation of a draft; by his formula, if Egypt considered the circumstances demanded it, she would give notice if she wanted, and Great Britain

would try to settle the matter amicably; if that proved impossible, Egypt would have had twenty years in the League of Nations and could bring her case before that body; the British delegation were prepared to cut five years off the duration and to suggest a year's notice of modification; Great Britain would then be automatically compelled to a conference after the experience which would have been gained by the working of the treaty for nineteen years. *Mr. Henderson* emphasised that his proposals of last July were the most generous which had ever been made by a British Government, and if His Majesty's Government were so reasonable now, he could not conceive the representatives of any Labour Government, at any rate, not treating the renewal of the treaty in the most reasonable and equitable manner. If a draft could be prepared on the lines which he proposed, he saw no reason why the difficulty could not be settled. *Mr. Henderson* said that he had now to attend another meeting, and he proposed that the new draft, which he would have prepared, should be discussed to-morrow morning at 10.30 A.M.

To this *Nahas Pasha* agreed.

Mr. Henderson said that he would accordingly present a draft on this point at 10.30 to-morrow morning. He enquired whether the Egyptian delegation would have their draft of article 9 ready for to-morrow.

Nahas Pasha said that he hoped so.

Mr. Henderson said that after that article 13 (Sudan) would be discussed.

(The meeting then adjourned.)

[J 1211/4/16]

No. 19.

Record of Proceedings at Eighth Meeting with the Egyptian Delegation on April 11, at 10.30 A.M.

THE following were present:—

Egyptian Delegation.

Nahas Pasha.
Wacyf Ghali Pasha.
Osman Moharrem Pasha.
Makram Ebeid Bey.
Mustapha Sadek Bey.
Kamel Selim Bey.

British Delegation.

Mr. Henderson.
Lord Passfield.
Mr. Shaw.
Lord Thomson.
Sir R. Vansittart.
Sir P. Loraine.
Mr. Dalton.
Major-General Sir K. Wigram.
Major-General Charles.
Air Vice-Marshal Newall.
Major R. G. Casey.
Mr. Clutterbuck.
Mr. Selby.
Mr. Murray.
Mr. Campbell.
Mr. Scrivener.
Mr. Mack.

Mr. Henderson opened the proceedings by saying that it had been decided at yesterday's meeting that a British redraft of article 16 should be communicated to the Egyptian delegation, and an Egyptian redraft of article 9 communicated to the British delegation.

The drafts were then exchanged. The British redraft of article 16 is as follows:—

"At any time after the expiration of a period of twenty years from the coming into force of the treaty, the high contracting parties will, at the request of either of them, enter into negotiations with a view to such revision by agreement between them of its terms as may be reasonable in the circumstances as they then exist."

[21319]

The Egyptian redraft of article 9 is as follows :—

"Whereas the Suez Canal is a universal means of communication, as also an essential means of communication between the different parts of the British Empire;

"And whereas the defence of the Suez Canal, which is an integral part of Egypt, devolves exclusively upon Egypt;

"Accordingly, until such time as the Egyptian army shall be in a position to hold off by its own resources an attack on the Canal, pending the arrival of allied reinforcements, His Majesty the King of Egypt authorises His Britannic Majesty to station at the Kantara zone east of the Canal a British military force to assist the Egyptian forces entrusted with the defence of the Canal. The presence of these forces shall not constitute in any manner an occupation, and will in no way prejudice the sovereign rights of Egypt."

Mr. Henderson suggested that it would be better to begin on the Egyptian draft of article 9. There might be objections of form from the drafting point of view, but there were also very serious objections to it on points of substance. For example, in the second paragraph the Egyptian delegation claimed that the defence of Egypt devolved exclusively upon Egypt; that contention the British side of the committee could never, in existing circumstances, accept; if the point was a matter of wording it might be referred to the drafting committee; if, however, it was a matter of principle, this committee could never accept it. In addition, the third paragraph of the Egyptian draft brought us back to the same position as when this article was first discussed; his proposals of last July said that the British forces would be stationed "in localities to be agreed upon"; the Egyptian delegation wanted the British forces to be definitely fixed to one place, namely, the Kantara zone. It seemed to him that, in spite of the time which had elapsed since this article was first discussed, the position, instead of improving, had actually got worse.

Nahas Pasha said, with regard to *Mr. Henderson's* observations, that the Egyptian contention was that the defence of the Canal rested exclusively on Egypt, since otherwise Egypt's sovereignty was impaired. The Egyptian delegation admitted that England should assist in the defence of the Canal and he consequently never thought that the use of the word "exclusively" would be objectionable. The defence of Egypt included the defence of the Canal; the paragraph consequently only stated the actual position. *Mr. Henderson* had said that no progress had been made, but he, *Nahas Pasha*, must point out that an advance had been made since the last meeting in that the Egyptian delegation had added "an essential means of communication between the different parts of the British Empire." In addition, the last Egyptian draft had mentioned Port Fuad or Kantara east of the Canal as the position for the British troops, whereas they now said "the Kantara zone east of the Canal." The word "zone" meant that sufficient space would be provided for all the British forces, air and military, for purposes of manoeuvres and training; there was surely an advance on this point. Moreover, the British forces would not be confined to a single town; access to the desert, &c., would be taken into consideration. That the defence of the Canal was the exclusive right of Egypt was even admitted in the British draft, which used the words "the King of Egypt authorises His Britannic Majesty to maintain . . . such forces . . ."; the Egyptian delegation had really done their best to make very considerable concessions; he thought that they had not gone back, but much further.

Mr. Shaw said that he regretted that this Egyptian draft had been submitted. It was made perfectly clear when the British proposals were published that all the cards on the British side were on the table; if there were an alliance then it must be a friendly alliance; an alliance could not be not friendly; the British proposals said that the military occupation of Egypt had ceased and that Great Britain would help Egypt with regard to the capitulations, which were declared to be not in accordance with the spirit of the times and the present state of Egypt; the alliance would enable Egypt to attain full sovereignty, but Great Britain required guarantees for the defence of Egypt; if this was admitted then there only remained the question of finding the best means of defending Egypt and assuring that hearty friendship on which the treaty would be based. Great Britain was ready to defend Egypt against anyone else. The present Egyptian proposal could not be said to be either friendly or in the interests of the defence of Egypt or the Canal. There were three vital points on the Canal from the defence point of view, namely, the two inlets at the

north and south ends, and a point in the centre. The Egyptian suggestion that the troops should be confined to the Kantara zone meant that the troops would neither be healthy nor well-situated. Both parties must either be friendly or not; if they were friendly, then Egypt should give Great Britain good bases; surely these were essential for defence purposes. Another consideration was that of the best lines of communication; could anyone say that, from this point of view, the east bank of the Canal compared with the west bank? He pointed out that the British forces would not be quartered in towns. It was vital that the Canal should be guarded for a time. The Egyptian delegation had been prepared to agree that troops should be stationed at Port Fuad. What was wrong in keeping troops at Ismailia as well? There must also be troops not in Suez itself, but north of Suez. The troops which were removed from Cairo and Alexandria would have to go somewhere. He could not for the life of him see why, given an alliance based on friendship, with both sides working for the common good, the Egyptian delegation should want to push the British forces to the east bank of the Canal, where there were no facilities of any kind, when every object was to be gained by keeping them on the western side. He felt very strongly on this point. Were we discussing as friends or as two parties trying to see how much each could get out of the other? If the latter was the case then agreement would be very difficult. *Mr. Shaw* contended that his suggestion could not be controverted on grounds of strategy, logic or good friendship.

Mr. Henderson said that he wished to ask one question which had a very important bearing on the point at issue. Did the Egyptian delegation admit that British troops should be stationed, say, at Kantara, during peace time?

Nahas Pasha replied that certainly that was what he meant; all the provisions of the proposed article were for a time of peace.

Mr. Henderson said that a lawyer who had not been present at the discussions in that room would fasten on the words at the beginning of the second sentence of the third paragraph, "until such time as the Egyptian army shall be in a position to hold off by its own resources an attack on the Canal," and say that they meant a state of disturbance, and not the position of peace contemplated when the treaty should come into operation; the phrase "holding off" postulated an emergency and was not applicable to peace times; there was nothing like it in the British draft; he was sure that in a debate in the House of Commons lawyers would place the interpretation which he had just mentioned on these words.

Nahas Pasha said that, with regard to the suggestion that the third paragraph might be interpreted as a war measure, it was to be remembered that the stationing of British forces on the Canal was a military matter which foresaw a state of war; no doubt in time of peace military precautions were necessary to take into account the event of war, a possibility which had to be foreseen. The Egyptian delegation only meant that, until Egypt could defend in the event of war, a British force would be there to help them in time of peace. In time of war, of course, both British and Egyptian forces would be in all places in Egypt to co-operate and defend. It was not the intention of the Egyptian delegation, as *Mr. Shaw* had said, to snatch all they could; they had really come to London in agreement with the spirit of *Mr. Henderson's* proposals; they admitted a British force on the Canal; there was, therefore, no real departure from *Mr. Henderson's* principles. The Egyptian delegation had made an honest attempt to reconcile the interests of both parties. The objection had been made to Kantara that it was not suitable either from the health or communications point of view, and that the western bank was better. He would point out that the Kantara zone was in the centre of the Canal, and, so far as communication with the ends of the Canal was concerned, the Egyptian delegation would be prepared to say in a note that all means of communication between Kantara and either end of the Canal would be facilitated; it was not the intention of the Egyptian delegation that the British forces should be stationed in the middle of the Canal and could not move from there. On the other hand, Egyptian troops would be on the Canal, as had been admitted, and the British navy could be at both inlets. With these safeguards, the Egyptian delegation had felt that Kantara was the best place for warding off attacks from the desert; it was also a junction between Egypt and Palestine, and he could not see why it was not the best place from the military point of view. The eastern bank had an added advantage in that it was higher than the western bank; any enemy was likely to come from the eastern bank and would find the British forces there. It should also be remembered that the word

"zone" implied an extensive area for all necessities. With regard to the defence of the Canal, he would add a reference to the convention of 1888, where it was laid down that that defence was reserved to Egypt even though she was under Turkish suzerainty at the time.

Lord Thomson said that the point at issue appeared to him to be fundamental. It was implicit in every article of the treaty that Great Britain was responsible for the defence of the Canal for the time being; the Egyptian army was not yet ready to assume that responsibility and until she was Great Britain must be able to discharge it. The Canal was nearly 100 miles long and was liable to attack from the north, south and east. Other considerations than the possibility of attack were involved. There was, for example, the defence of shipping. All the British delegation asked for was facilities for the efficient discharge of the responsibility which was Britain's for the time being. For this purpose Great Britain wanted stations for aerodromes at both ends of the Canal in order to protect shipping coming in or going out. As he had pointed out at an earlier meeting, if war broke out the Canal might be attacked in the first twenty-four or even the first ten hours and damage done. There would be no time to move troops to the Canal, and it was therefore necessary to have the means of defence available and on the spot, and men trained in the climatic conditions in which they would have to operate. The last war had proved that. The defence of the Canal could not be assured from Kantara; it was impossible to have a base unprotected with the Canal behind it. With regard to establishments, Great Britain had already gone to great expense in building barracks and accommodation at Ismailia; there was also an air force training school at Abu Sueir; there was at present an aerodrome at Suez; the Egyptian delegation could not expect them to sacrifice these positions and go to Kantara. Moreover, what reason was there for a friendly ally putting British forces in that unhealthy spot which was in every way unsuitable for cantonments, and would involve great expense for transferring the forces? Was that the way to treat a friendly ally who had undertaken to discharge a responsibility which Egypt was not ready to assume? Great Britain could not discharge her responsibilities under the conditions proposed. The Egyptian delegation had suggested that a note might be drafted. He could not see that the drafting committee had enough to go on. This was a fundamental point, namely, the means of enabling Great Britain to discharge her responsibility to resist an attack which would be made in the most modest form. This responsibility was not for a few years only, but for the duration of the treaty. It was extraordinary treatment for an ally to ask Great Britain to turn out her forces from establishments where they did not interfere with the life of Egypt and where amenities had been provided, and put them into a desert of loose sand infested by mosquitoes. The Egyptian proposal was untenable in every aspect.

Nahas Pasha said that it would have been observed that Lord Thomson's observations were really based on the assumption that the defence of the Canal rested exclusively on Great Britain for the time; this the Egyptian delegation could not admit in any way. He thought that it had been admitted that the responsibility was joint *ab initio*, but that England should help; this was the basis of the treaty; the Egyptian army did exist.

Mr. Henderson pointed out that Lord Thomson had not raised the question of sovereignty, but had discussed the matter from a practical standpoint.

Nahas Pasha said he wanted to be helpful. So far as the expenses of transfer from Abu Sueir, Ismailia and Suez were concerned, he would go so far as to admit that the Egyptian Government were ready to give reasonable and adequate compensation. Kantara united, in the opinion of the Egyptian delegation, all the qualifications necessary from the point of view of defence and health; Osman Moharrem Pasha had assured him that, as the east bank of the Canal was higher than the western side, Kantara was healthier than other places along the Canal, including Ismailia, and that there were fewer mosquitoes there.

Lord Thomson asked if Kantara possessed all these qualities, why the Egyptian delegation did not propose to put Egyptian troops there.

Nahas Pasha said that the point under discussion was the location of British troops, not of Egyptian. It was far from his idea that British troops should be in an unhealthy place. With regard to Lord Thomson's contention that there should be aviation facilities at both ends of the Canal, he would again point out that this was not the case at present, and why should it therefore be necessary for the future?

Lord Thomson declared that there were at the present moment landing-grounds both at Port Fuad and at Suez.

Nahas Pasha said that landing-grounds were on a different footing.

Lord Thomson said that landing-grounds required men to look after them. There was at present an air station at Aboukir which His Majesty's Government were proposing to leave.

Nahas Pasha said that so far as seaplanes were concerned, there was plenty of room on the lakes at Kantara.

Mr. Henderson here pointed out that a lot of time had already been spent on this article, and his remark at the beginning of the meeting that we had moved backward rather than forward had been shown by the discussions which had since taken place to be a fairly accurate estimate of the case. He could not understand the attitude of the representatives of the Egyptian Government. When his Majesty's Government undertook, as they definitely did, to terminate the occupation of Egypt and remove the British forces from their present positions to the vicinity of the Canal, they took one of the most important steps which had even been taken having regard to all the circumstances; but in doing so they had been confident that the most adequate and satisfactory facilities from every standpoint would be not only granted by Egypt, but magnanimously granted, in order to ensure that during the period of the new treaty, whether it was long or short, the British forces would be placed under the very best conditions. Those members of the British committee who represented more directly than he did the military side were quite satisfied that any offer which the Egyptian delegation had made up to the present was not up to their expectations; he did not approach the question from the military standpoint, as his experience did not entitle him to do so, but from the purely practical standpoint it seemed to him that, if Great Britain was to have troops in the vicinity of the Canal, the question surely ought to be how to give them the very best and not the most meagre positions; they should not, as Lord Thomson had stated, have to go from their present positions to some place which was not so good from the military and strategic point of view and, if Lord Thomson was right, was far from good from the health point of view; and yet His Majesty's Government were asked in the document which the Egyptian delegation has just put forward to say that the defence of the Canal rested *exclusively* on Egypt; surely His Majesty's Government could not be expected to accept that, which could only be interpreted to mean that the British forces would have to get out and leave at any moment as if they were merely in the position of being seconded for a limited period to be determined by the Egyptian Government. He should have thought that especially during the first period, in view of the importance which this country and Parliament attached to the defence of the Canal, the Egyptian delegation would be ready to make the best possible arrangement. He thought that the Egyptian Government would have realised that this was a joint arrangement, and, in order to make it most effective, would have said that they wanted British troops to co-operate in what they themselves admitted was an essential means of communication of the British Empire. Instead, however, of adopting this more generous attitude in a matter which was most important to the British committee and himself, the Egyptian delegation were treating them in the most niggardly way. He repeated that no progress at all had been made, and the words suggested by the Egyptian delegation would create a very bad impression on public opinion in this country. The use of the words "the defence of the Suez Canal devolves exclusively upon Egypt," together with the phrase "until such time as the Egyptian army shall be in a position to hold off by its own resources," would create the impression that Great Britain was only going to be brought in on sufferance, and not as part of a system of co-operation; and even if that was not sufficient, the proposed clause provided that the presence of British troops could be terminated by a decision of one side. He had no hesitation in saying that the position, as stated this morning by Nahas Pasha, was unacceptable to the British committee. If the two countries were to be allied, then they must act as allies, and the British forces must be placed in positions satisfactory to His Majesty's Government in every way. There must be no shadow of doubt on this point. Article 9 could not be altered in such a way as to leave any doubt as to the position of the men who would have to defend this very important and valuable artery, as he had called it more than once at previous meetings. The last point which he wished to bring to the notice of the Egyptian delegation was the declaration of

the 28th February, 1922. The Egyptian delegation might say that they did not accept that declaration, but the British delegation had to bear it in mind; it was impossible to get away from the past. Under that declaration the security of the communications of the British Empire in Egypt was one of the matters absolutely reserved to the discretion of His Majesty's Government. His Majesty's Government were, however, departing from that declaration and were proposing to share the responsibility with Egypt. If the Egyptian delegation thought that the British Parliament were going to accept, firstly, an admission that the defence of the Suez Canal devolved exclusively upon Egypt, secondly, that Great Britain's assistance would only be required in war, thirdly, a refusal by Egypt to meet His Majesty's Government on the question of localities on the lines arranged last July, and, finally, the added humiliation imposed by the proposal that the British troops were only to come in on sufferance to assist—if the Egyptian delegation thought that the British Parliament would accept that position, then they were making a very profound mistake.

Nahas Pasha said that he was really very sorry that their real intentions had been so misunderstood. The Egyptian delegation came here this morning believing that important concessions had been made on their side. They had made a concession regarding the stationing of their troops. The differences that existed were of detail; the vital point was that the principle was admitted and the discussion of details would show that there was no departure from the essential object that the positions should be satisfactory for the defence of the Canal. *Mr. Henderson* had pointed out that the position had become worse, and had suggested that the British troops were being seconded. The Egyptian delegation thought that *Mr. Henderson's* view that there should be co-operation in the defence of the Canal had already been admitted, but the initial and territorial responsibility rested on Egypt, and Great Britain came to help her.

Mr. Henderson remarked that the Egyptian delegation did not forget to rub that in.

Nahas Pasha asked whether it was not explicitly stated in article 7 that Great Britain would come to the aid of Egypt in the capacity of an ally.

Mr. Henderson pointed out that in spite of that the Egyptian draft stated that the defence of the Canal was the exclusive concern of Egypt.

Nahas Pasha then offered to omit the word "exclusively" in order to show his real intentions. *Mr. Henderson* had used the word humiliation; on the contrary Egypt was honouring her ally by asking her to come to her aid with reinforcements.

Lord Passfield said that the treaty contained two obligations on the part of Great Britain: firstly, the defence of Egypt in time of war, and, secondly, the defence of the Canal. What was the use of saying that the defence of the Canal devolved exclusively upon Egypt?

Makram Ebeid explained that the words had been used to show that Egypt also defended the Canal.

Lord Passfield said that it was impossible to go to Parliament with that wording.

Mr. Shaw said that the British delegation wanted an agreement, but that the attitude which the Egyptian delegation had adopted of treating the British forces as pawns on a chessboard to be moved about as they wished made no agreement on those lines possible.

Makram Ebeid said that that was not the real meaning of the article.

Mr. Henderson here interjected that article 9 had been discussed at three meetings already, but that, in spite of that, the Egyptian delegation had brought along a draft which did not meet the British view in any way.

Nahas Pasha then proceeded to deal with *Mr. Henderson's* earlier remarks. He said that the Declaration of 1922 was unilateral, and there was, therefore, no necessity to speak about it any more; the British Government were prepared to go beyond it. In order to facilitate the position of their British friends before Parliament, the Egyptian delegation were ready, while maintaining, of course, their legal position as territorial sovereign, to agree to the following phrase: "Whereas the Suez Canal, while being an integral part of Egypt, is a universal means of

communication, as also an essential means of communication between the different parts of the British Empire." Paragraph 2 of the Egyptian draft would be omitted and paragraph 3 would remain.

Mr. Henderson said that on this point the Egyptian delegation had insisted.

Makram Ebeid said that the Egyptian delegation had only meant to state clearly the legal position; they had not meant to rub it in, as *Mr. Henderson* had said.

Mr. Henderson asked whether the Egyptian delegation would like to consider now his appeal regarding the localities in which the British forces were to be stationed.

Makram Ebeid said that it was now the turn of the British delegation to meet them.

Mr. Henderson pointed out that by the proposals His Majesty's Government undertook to withdraw from Cairo and Alexandria, not from the vicinity of the Canal, where troops were at present stationed. He asked the Egyptian delegation to read the reports of the debates which had taken place in both Houses of Parliament if they thought that he was exaggerating the importance of the point.

Mr. Shaw said that the Egyptian delegation wanted the British troops which were at Port Said to be moved to Port Fuad. To that he agreed; but there were already troops at Ismailia. Why should they be removed?

Lord Thomson asked the Egyptian delegation to bear in mind that the Canal had to be defended from the air as well. Egypt had no air force as yet, so the defence of the Canal from the air rested solely on us.

Nahas Pasha pointed out that Egypt was prepared to ask for a military mission.

Mr. Shaw said that the military mission had nothing to do with the defence of the Canal.

Nahas Pasha said that the Egyptian delegation had met the British view on two points, namely, that the Canal was an essential means of communication of the British Empire, and the omission of the word "exclusively." It was now time for the British delegation to meet the Egyptian view.

Lord Passfield said that it must be quite clear that it was impossible for the British representatives to go back on the position that Great Britain must assure the complete defence of the Canal. This could only be done by having British troops where they now are or in equivalent positions. Three places at least were essential, and the British representatives could take nothing less.

Nahas Pasha said he could not admit that British troops should be in the three places mentioned, since they would thus be along the whole Canal.

Lord Passfield pointed out that His Majesty's Government had only undertaken to remove the troops from Cairo and Alexandria; they had never undertaken to move them from the Canal.

Makram Ebeid here quoted the original British draft of article 9, which raised the question of agreement as to where the troops were to be.

Mr. Henderson pulled him up and said that this question had been fully discussed three days ago; the article which *Makram Ebeid* had quoted said "localities"; the Egyptian delegation wanted the British forces in one place.

Makram Ebeid pointed out that the word "zone" was used in the Egyptian formula.

Mr. Henderson then asked that the Egyptian delegation should give a definition of what they meant by the word "zone."

As *Nahas Pasha* hesitated before attempting to reply, *Lord Passfield* said that if the zone extended from Port Said in the north to Suez in the south and included Ismailia, it might be acceptable; otherwise it was not.

Mr. Henderson appealed to the Egyptian delegation not to adopt a niggardly method of approach to this question. If they meant that the British troops should defend the Canal from one spot and no other, then the British representatives could not agree. He had suggested three days ago that a joint commission should examine the localities on the spot, but the Egyptian delegation had said that the point could be settled here, and yet all that they had done was to suggest that the British forces should be tied down to Kantara. This was not consistent with the spirit of the proposals which had been before the Egyptian people for seven months.

Lord Passfield repeated that nothing less than three positions was acceptable.

Makram Ebeid said that the Egyptian delegation could not grant three positions.

Mr. Henderson said that, if the Egyptians objected to "localities," they should have said so seven months ago when the proposals were published. These proposals had become known to the Egyptian people; they were published in this country; he had tried to induce Nahas Pasha to explain his views before he came, but had been unable to get anything from him.

Nahas Pasha said that it was in the interests of the treaty that he had not submitted the proposals to the Egyptian people.

Mr. Henderson was prepared to admit all that, but yet, after three days' discussion, we were no better off than before the discussions started. So far as he personally was concerned, he could not be a party to this attempt to get right away from his original offer. In order that the Egyptian delegation might realise the importance which the Labour Government now and in 1924 attached to the defence of the Canal, he would like to read them an extract from a despatch sent to His Majesty's High Commissioner in Cairo in 1924, which had been published to the world. *Mr. Henderson* then read the fourth paragraph of *Mr. MacDonald's* despatch to *Lord Allenby* of the 7th October, 1924 (Cmd. 2269):—

"I promised in the course of our first conversation to be perfectly frank with his Excellency (Zaghlul Pasha). Then and subsequently I left him under no illusion as to the position which His Majesty's Government are compelled to take up in regard to Egypt and the Sudan. Your Lordship will recall that when His Majesty's Government withdrew the British protectorate over Egypt in 1922, they reserved certain matters for eventual settlement by agreement. Though I have by no means abandoned hope that, on further consideration, the basis of an agreement acceptable to both countries can be found, the attitude adopted by Zaghlul Pasha has rendered such agreement impossible for the present. I raised the question of the Canal straight away because its security is of vital interest to us both in peace and in war. It is no less true to-day than in 1922 that the security of the communications of the British Empire in Egypt remain a vital British interest and that absolute certainty that the Suez Canal will remain open in peace as well as in war for the free passage of British ships is the foundation on which the entire defensive strategy of the British Empire rests. The 1888 Convention for the free navigation of the Canal was an instrument devised to secure that object. Its ineffectiveness for this purpose was demonstrated in 1914, when Great Britain herself had to take steps to ensure that the Canal would remain open. No British Government in the light of that experience can divest itself wholly, even in favour of an ally, of its interest in guarding such a vital link in British communications. Such a security must be a feature of any agreement come to between our two Governments, and I see no reason why accommodation is impossible, given goodwill."

These words defined *Mr. Henderson's* position to-day. There must be absolute certainty on that point. He hoped that *Nahas Pasha* and his colleagues would try to appreciate the gravity of the position and that, when the next meeting took place, they would try to meet the British view with regard to these places.

Nahas Pasha said that he would also ask *Mr. Henderson* to remember that the question of British troops on the Canal was one on which Egyptian public opinion was most sensitive, and he hoped that the British representatives would meet them on this point. He could not face Egyptian public opinion if he accepted a clause which in reality constituted an occupation of Egypt.

Mr. Henderson said that he wished *Nahas Pasha* to understand that his cards had been put on the table seven months ago; his proposals went further than any of His Majesty's Government had ever gone; this could not be challenged; he hoped the Egyptian delegation would keep that in mind.

Nahas Pasha said that he was only trying to give some idea of the strength of Egyptian public opinion on this point. If the proposals had been discussed in Egypt the Egyptian delegation would not be in London now.

Mr. Henderson remarked that if the Egyptian delegation were not here now he would not be in the position of being asked to undertake another responsibility; he had done his part by making to Egypt the best offer which had ever been made.

Mr. Shaw said that the Egyptian delegation were asking the British troops to leave every single place where they were now stationed; everyone was to be sent to Kantara; in fact, they were all being turned out. In thinking of their own national dignity, the Egyptian delegation must think also of Great Britain's dignity. The question was one of extreme gravity.

Mr. Henderson then enquired when the next meeting could take place, and it was finally agreed that the delegations should meet on Monday, the 14th April, at 5 P.M.

NOTE.—When this series of meetings began, the translation from English into Arabic and from Arabic into English was done by *Kamel Selim Bey*. At the third meeting, however, *Makram Ebeid Bey* took over the translation from Arabic into English (on the ground, as he said, that he was more competent to translate legal arguments), and continued to perform this function at the subsequent meetings. *Kamel Selim Bey* still does the translation from English into Arabic, with occasional assistance from *Mustapha Sadek Bey*. The translation in both cases is a condensed paraphrase of the original.

[J 1312/4/16]

No. 20.

Preliminary Meeting of the British Committee on April 14, at 4 P.M.

Mr. Henderson said that he had had meetings with *Nahas Pasha* on Saturday and Sunday; he thought that the Egyptian delegation were anxious for a settlement and were doing their best; he had invited their views on two or three points and had held further discussions with them; to-day they had submitted three drafts of certain articles which they wished the British delegation to consider (the drafts in question, together with the British drafts, are reproduced below):—

ARTICLE 9.

British Draft.

In view of the fact that the Suez Canal, while being an integral part of Egypt, is a universal means of communication as also an essential means of communication between the different parts of the British Empire, His Majesty the King of Egypt, until such time as the high contracting parties agree that the Egyptian forces are in a position to ensure by its own resources the liberty and entire security of navigation of the Canal, authorises His Britannic Majesty to station in the neighbourhood of Ismailia and in an area north of Suez such forces as His Britannic Majesty considers necessary

Egyptian Draft.

In view of the fact that the Suez Canal, while being an integral part of Egypt, is a universal means of communications as also an essential means of communications between the different parts of the British Empire, His Majesty the King of Egypt, until such time as the Egyptian army shall be in a position to hold off by its own resources an attack on the Canal pending the arrival of Allied reinforcements, authorises His British Majesty to station in the neighbourhood of the Canal a British military force to co-operate with Egyptian forces entrusted with the defence of the Canal.

to ensure in co-operation with the Egyptian forces the defence of the Canal; for the same purpose the Royal Air Force depot will be transferred from Abukir to Port Fuad. The British forces will enjoy facilities for communications and will have access to the desert areas on either side of the Canal for purposes of training and manœuvre. The presence of these forces shall not constitute in any manner an occupation and will in no way prejudice the sovereign rights of Egypt.

The presence of this British force shall not constitute in any manner an occupation and will in no way prejudice the sovereign rights of Egypt.

ARTICLE 13.

British Draft.

While reserving the liberty to conclude new conventions in future modifying the conventions of 1899, the high contracting parties agree that the status of the Sudan shall be that resulting from the said conventions. Accordingly, the Governor-General shall continue to exercise on the joint behalf of the high contracting parties the powers conferred upon him by the said conventions.

Egyptian Draft.

While reserving liberty to conclude by future negotiations an agreement modifying the 1899 conventions and settling the Sudan question, and without prejudice to Egypt's right of sovereignty over the Sudan, the high contracting parties agree that the status of the Sudan shall be that resulting from the said conventions.

Accordingly, the administration of the Sudan shall be exercised by the high contracting parties in a joint and effective manner, and the Governor-General shall exercise, on the joint behalf of the high contracting parties, the powers conferred upon him by the said conventions.

ARTICLE 16.

British Draft.

At any time after the expiration of a period of twenty-five years from the coming into force of the treaty, the high contracting parties will, at the request of either of them, enter into negotiations with a view to such revision by agreement between them of its terms as may be reasonable in the circumstances as they then exist.

Nevertheless, at any time after the expiration of a period of ten years from the coming into force of the treaty and at intervals thereafter of not less than ten years negotiations may be entered into with the consent of both the high contracting parties with a view to such revision as aforesaid.

Mr. Henderson said he would like to consider article 16 first. *Nahas Pasha* had accepted the principle that the duration of the treaty should be twenty-five years, but he would like revision every eight years to be provided for; would the committee now consider the Egyptian drafts?

Sir R. Vansittart said that the Egyptian draft would make the treaty absolutely terminable at the end of twenty-five years.

Mr. Henderson agreed and said that the Egyptians had once more reverted to that position; he read out the British draft and drew the committee's attention to the word "may" in the second paragraph; the original British proposal had been slightly reworded and provided for revision after a period of ten years—an idea which Lord Passfield had expressed the other day.

Mr. Shaw said that this point was of minor importance and he would not mind meeting the Egyptian delegation's wishes.

Mr. Henderson said that he understood that *Mr. Shaw* desired the expiration of the treaty to be twenty years.

Mr. Shaw said that he would prefer that the period of twenty years should be kept as a concession.

Mr. Henderson said that this point would be dealt with in the discussions.

Lord Thomson said that it was vital to see that the treaty did not suddenly come to an end; did the Egyptian delegation clearly understand this point?

Mr. Henderson proceeded to discuss article 9 and read out the Egyptian draft reproduced above.

Lord Passfield pointed out that the Egyptian delegation refused to name the place at which troops would be stationed and did not provide for agreement between the contracting parties as regards the moment at which the Egyptian army would be fit to undertake the defence of the Canal.

Mr. Henderson read out the British draft and called attention to the fact that he had provided for the placing of troops in an area north of Suez as well as at Ismailia. He wished to impress on the committee that the Egyptian delegation were seriously alarmed at the prospect of bringing back to Egypt a treaty which stated that the occupation was terminated, but which, nevertheless, made provision for the presence of 11,000 British troops of all arms; the committee must consider this question seriously as it involved great difficulties; it would be necessary to ask the Cabinet for a decision to-morrow. He wished to ask the Secretary of State for War what were the maximum forces which he required.

Mr. Shaw said that the maximum would be over 10,000, but that the minimum was much less. He would require from 50 to 100 men at Port Fuad for administrative duties; he would require 5,500 men, representing the strength of one division, complete with hospitals, &c., at Ismailia, and 2,500 north of Suez; every endeavour should be made to locate a force north of Suez with a minimum strength of 2,000 men and a maximum strength of 2,500 men. He would endeavour to move 2,000 troops from Egypt altogether, if it would be of assistance.

Mr. Henderson thought that this would be of assistance.

General Charles said that the Imperial General Staff did not particularly desire to station troops in two localities, but that the stretches of soft sand around Ismailia precluded training except for a restricted number of men. It would, of course, be possible to station any number of men at Ismailia, but owing to the impossibility of carrying out regular training, the men would spend a large portion of their time in enforced idleness. Their anxiety to go to Suez was based on purely geographical considerations, the central fact being that the desert there was hard. It would be necessary to have in readiness a mobile force to proceed east of the Canal in time of war to meet the sort of mobile force which modern military developments had called into being, for example, forces relying on mechanical transport and troop-carrying aeroplanes, which were undreamt of in 1914 and had thus introduced a new complication. It was for this reason that the Imperial General Staff had asked for a higher garrison than in pre-war times; the numbers were not unreasonable. The desire to keep troops at Suez was dictated purely by considerations of training; a march of 5 miles a day in soft sand was, for example, the limit of a man's effort. Not more than 5,500 troops could be stationed at Ismailia if they were to be properly trained. Apart from this consideration, the Imperial General Staff would have preferred to keep the whole force in one place.

Mr. Henderson said that he would have preferred to station 1,000 men at Port Fuad and 1,000 north of Suez.

General Charles said that the stationing of troops at both ends of the Canal was not vital owing to the existence of the railway running from Port Said to Suez. Moreover, the fortification of the Suez Canal was forbidden by the Suez Canal Convention.

Lord Passfield suggested that the Egyptian delegation might say that a separate clause governed the question of training and manœuvres.

General Charles said that it was possible, say, once a year to move troops a long distance to the manœuvre area; day-to-day training was, however, quite a different matter and facilities must exist in the vicinity.

Lord Passfield said that that answered his question.

General Charles pointed out that before the war the Egyptian army was under British control and was more available for the purposes required by His Majesty's Government than an Allied army would be. For example, the Egyptian army during the Sudan campaigns was, in effect, practically under the orders of the British Cabinet.

In reply to a question by Mr. Henderson, *Mr. Murray* stated that the present numbers of the Egyptian army were just over 11,000. The total before 1924 had been greater, and the difference was accounted for by the formation of the Sudan Defence Force.

Mr. Henderson said that the Secretary of State for War would therefore put his case to the Egyptian delegation and ask for an arrangement under which the bulk of the forces would be stationed at Ismailia, with a section north of Suez. He had reason to believe that the Egyptian delegation would say that they wanted to place their own troops at Suez and that this Egyptian force would be sufficient.

General Charles repeated that the requirements of the War Office were dictated by geographical reasons.

Lord Passfield enquired whether the numbers of the British forces would be settled by a note.

General Charles said that so long as His Majesty's Government could decide the numbers, the position was quite safe; but if, say, in ten years' time it proved desirable to alter the numbers and position of the troops His Majesty's Government would be tied if the numbers had already been fixed.

Mr. Henderson pointed out that the numbers affected the question of finance. If the numbers were increased, were we to ask the Egyptian Government for additional money for accommodation?

General Charles said that this would certainly be unreasonable; but it might possibly be necessary as a temporary measure to put troops somewhere else under canvas. A situation similar to that which arose in Palestine last August might occur again.

Lord Passfield pointed out that the War Office had undertaken to reinforce Palestine from Egypt.

Mr. Henderson said that it was essential to have some idea of the numbers, as the question of money was involved. Were we going to say "build accommodation for 8,000 men" or "give us so much money and we will undertake the building ourselves."

Mr. Shaw said that before places and numbers were settled no estimate could be given. He thought that a settlement based on a given sum of money would be as good as any other.

Mr. Henderson agreed. He pointed out that there were barracks at Ismailia for 2,000 men. The cost of those barracks was known. Could no estimate be given of the cost of accommodating an extra 3,500 men? Knowing the cost of the existing barracks at Ismailia, would it not be possible to budget for the accommodation north of Suez? It should be possible to make a rough and ready calculation, add an extra sum for emergencies and inform the Egyptian Government that on payment of this sum we would build to our own specification.

Lord Thomson agreed.

Mr. Henderson said that the Egyptian Government might refuse to give the money until they knew when the accommodation would be completed.

General Charles thought that the onus should be placed on the Egyptians. They would then build as quickly as possible and they would have to bear any difference in prices. This might be considerable. Supposing the prices went up whilst the barracks were under construction.

Mr. Henderson said that they might do so, but that they might equally well go down.

Lord Passfield said he would prefer that the War Office should do their own building, otherwise disagreements in regard to specifications, &c., would take place. Egyptian standards were not the same as ours, and we should be able to build the barracks more rapidly.

Sir Percy Loraine suggested that the Egyptian Government could control prices.

Mr. Henderson enquired who were the owners of the existing barracks.

Mr. Shaw replied that the War Office owned them.

In reply to a question by Mr. Henderson, *Mr. Murray* explained that the War Office could find some title in the terms of the Egyptian Indemnity Act of 1923.

Mr. Henderson said that there were three or four very large questions to be solved, and that it might be necessary to sit very late. The Egyptian delegation wished to complete the negotiations this week, and if these points were not entirely settled in accordance with the 1929 proposals he would have to refer to the Cabinet on the following day.

Lord Thomson enquired whether the Egyptian draft of article 9 was being rejected.

Mr. Henderson said that alternative drafts were being proposed; Lord Thomson and Mr. Shaw must fight that battle, and he would be the impartial chairman. Reverting to the question of the Indemnity Act, Mr. Henderson read out the text.

Mr. Dalton stated that this did not constitute a legal title; it was only a postponement of discussion.

Mr. Henderson said that the approximate value of the sites occupied by the British military forces in Cairo and Alexandria was £4,500,000.

Lord Passfield enquired whether the requisite accommodation at Ismailia and Suez could be constructed for that sum.

General Charles did not think so, in view of the necessity of planting trees and providing other amenities.

Mr. Murray pointed out that the amenities at Abbassia did not prove very costly.

Lord Passfield said that he did not see how an estimate of 20 millions could be arrived at.

Mr. Henderson agreed that this figure was absurd, and to ask it would be to bar the door to any agreement. He had, however, no objection to asking for 10 millions.

Lord Passfield enquired whether it would not be possible to name the area north of Suez exactly.

Mr. Murray explained that it would be extremely difficult to give a name to any area in that quarter.

Lord Thomson said that he would require accommodation for 3,500 men, which was nearly 500 more than the present establishment. Accommodation for the three squadrons from Heliopolis and Helouan would be required at Ismailia. The total strength of these squadrons would be 1,800, including the personnel of the training school at Abu Sueir. A large proportion of these personnel were mechanics.

After further discussion, *Mr. Henderson* suggested that discussion should be opened on article 16, followed by article 13 and later by article 9.

Record of Proceedings at Ninth Meeting with the Egyptian Delegation on April 14, at 5 P.M.

THE following were present :—

Egyptian Delegation.

Nahas Pasha.
Wacyf Ghali Pasha.
Osman Moharrem Pasha.
Makram Ebeid Bey.
Mustapha Sadek Bey.
Kamel Selim Bey.

British Delegation

Mr. Henderson.
Lord Passfield.
Mr. Shaw.
Lord Thomson.
Sir R. Vansittart.
Sir P. Loraine.
Mr. Dalton.
Lientenant-General Sir K. Wigram
Major-General Charles.
Air Vice-Marshal Newall.
Major R. G. Casey.
Mr. Clutterbuck.
Mr. Selby.
Mr. Murray.
Mr. Beckett.
Mr. Campbell.
Mr. Scrivener.
Mr. Mack.

Mr. Henderson said that the first question which he wished to be considered was one of procedure. He pointed out that the Cabinet would meet to-morrow morning at 10.30 and would not meet again for two weeks; he suggested, therefore, that the delegations should have a long sitting to-day—after dinner, if necessary—as it was very important to reach to-day an understanding on all outstanding points. There had already been full discussion of all the points at issue, and he suggested that the meeting should now discuss them in committee as it were, without spending too much time on them. He proposed to begin on article 16; the British committee had considered the new Egyptian draft and were now in a position to communicate a revised British draft; perhaps the Egyptian delegation would wish to withdraw to another room and consider the draft in order to come to a quick decision.

Nahas Pasha agreed to sit late, and the Egyptian delegation retired at 5.19 P.M. to consider the proposal.

The drafts are as follows :—

British Draft.

At any time after the expiration of a period of twenty-five years from the coming into force of the treaty, the high contracting parties will, at the request of either of them, enter into negotiations with a view to such revision by agreement between them of its terms as may be reasonable in the circumstances as they then exist.

Nevertheless, at any time after the expiration of a period of 10 years from the coming into force of the treaty and at intervals thereafter of not less than ten years, negotiations may be entered into with the consent of both the high contracting parties with a view to such revision as aforesaid.

The present treaty is concluded for a period of twenty-five years from the date of the exchange of ratifications. Periodically, every eight years, negotiations shall take place at the request of either of the high contracting parties with a view to reconsidering the treaty and introducing such modifications as are appropriate in the circumstances then existing.

Egyptian Draft.

The Egyptian delegation returned at 5.59 P.M. and communicated the following formula :—

The present treaty is concluded for a period of twenty-five years from the date of the exchange of ratifications. At any time after the expiration of the said period the high contracting parties will, at the request of either of them, enter into negotiations with a view to such revision of its terms as may be appropriate in the circumstances as they then exist.

Nevertheless, at any time after the expiration of a period of eight years from the coming into force of the treaty, and at intervals thereafter of not less than eight years, negotiations may be entered into with the consent of both the high contracting parties with a view to such revision as aforesaid.

In all cases of disagreement the difference will be submitted to the League of Nations.

Nahas Pasha explained that he had tried to meet the British delegation on their formula; and that, in order to take another step forward in the way of agreement, he had consulted the very first proposals which had been made by Mr. Henderson to Mahmoud Pasha (Project A on page 31 of Mahmoud Pasha's Green Book), and had based the Egyptian formula on it.

Mr. Henderson here interrupted Nahas Pasha and pointed out that he was proceeding on a fallacy, since Mahmoud Pasha's Project A was not his proposal, but Mahmoud's own. Mr. Henderson had handed Mahmoud over to Foreign Office officials with a view to getting something on paper; he never saw Project A until he read it in the Green Book and he had not agreed to it.

Makram Ebeid pointed out that on page 6 of the Green Book it was stated that "It was agreed that the Foreign Office should draw up a project embodying the whole of what we had agreed upon."

Mr. Henderson again pointed out that the Egyptian delegation's reasoning was based on a fallacy and read an earlier passage from the Green Book to confirm his point. The Egyptian formula did not meet the British delegation at all; he had made it quite clear the other day that the one thing which he could not accept was that the treaty ended after twenty-five years. It appeared that they were about to cover all the same ground again.

Makram Ebeid pointed out that the new Egyptian formula did not mean that the treaty ended.

Mr. Henderson asked why, if the Egyptian delegation were ready to accept the British proposal providing for negotiations after ten years instead of eight, they did not make this clear in their formula? The Egyptian delegation had also added a sentence providing for reference of all cases of difference to the League of Nations, which was, in fact, already provided for by article 15 of the treaty; it was absurd to repeat ourselves on all these points.

Nahas Pasha said that Mr. Henderson's idea seemed to be that the Egyptian formula fixed the duration of the treaty for twenty-five years only, whereas, in fact, the Egyptian delegation wanted it to continue; they said that any time after the expiration of the twenty-five years the two sides would enter into negotiations, and if no agreement was reached they would have to go to the League of Nations; he thought that his delegation had met the British in substance if not in form; having admitted twenty-five years, they provided for negotiations after eight years, since this was a more convenient figure and would allow three revisions.

Mr. Henderson said that he would take the point about the League of Nations first; reference to the League of Nations was already provided for by article 15 of the treaty; moreover, the Egyptian delegation had removed the words "with a view to such revision by agreement between them of its terms"; the British delegation attached great importance to those words. They did not wish to have recourse to arbitration on every single point that arose or invoke the League of Nations; there would be time enough for that later if and when no agreement had been reached. The words "such revision . . . as may be reasonable" were regarded as essential by the British delegation. The British delegation had proposed ten years instead of eight, since ten was a figure which was frequently used in treaties and would also be helpful in getting the treaty through; he thought, therefore, that the Egyptian delegation should be ready to accept ten years instead of eight. Moreover,

the second paragraph of the British draft had been inserted as a direct concession to Egypt. If the terms of this article, as announced last July, whereby the treaty was to run for twenty-five years without being revised, were now reopened, then surely both sides should agree to negotiate fifteen years earlier than would otherwise have been the case; and yet the Egyptian delegation did not accept this, but wanted the question kept open to the advantage of one party.

Nahas Pasha explained that his idea was that such revision should be by agreement on both sides. If it meant that the League of Nations could not be invoked, then he could not agree to it; if it meant that the League of Nations could be invoked, then there was no point in adding the words "by agreement."

Mr. Henderson explained that "by agreement" meant that we were going to try to agree; he again pointed to article 15.

Makram Ebeid then enquired whether *Mr. Henderson* could suggest anything to make the meaning clearer.

Mr. Henderson said that he wanted to make it perfectly clear that the two phrases which the Egyptians had removed hung together; if when the time came His Majesty's Government asked for what was unreasonable, then Egypt could invoke article 15, as for any other dispute.

Makram Ebeid repeated his question as to whether *Mr. Henderson* would put up another formula, since there was agreement on the sense of the article.

Mr. Henderson pointed out that a formula had been before the Egyptian people for seven months; the Egyptian delegation had recently been given two more drafts; yet they had put up another draft in which they had altered the opening clause and yet said that it meant the same thing as the British clause; if it meant the same thing, why alter it? Why had not the Egyptian delegation taken the British draft and made amendments to it instead of putting up a new draft? A lot of time had already been spent on this article; the Egyptian delegation now wanted another draft, as if we could go on endlessly preparing drafts.

Nahas Pasha said that the reason why the Egyptian delegation had suggested 8 years instead of 10 was that 25 divided by 3 equals 8, but that he could agree to 10. With regard to the words "with the consent of both the high contracting parties" in the second paragraph of the British draft, it would be open to one party to refuse; there would thus be no negotiations and the provision would mean nothing. He was prepared to accept the figure of twenty-five years because he wanted a friendly talk after each period of ten years.

Mr. Henderson asked whether the wording of the first part of the draft could be settled before the second part was taken.

Nahas Pasha explained that the difficulty about the words "by agreement between them" from his point of view was that he was afraid that the League of Nations might say that the words "by agreement between them" provided for agreement, and that there was therefore no need for the interference of the League of Nations; all the Egyptian delegation asked was that the meaning should be made perfectly clear since there was already agreement in substance. Article 15, moreover, only referred to differences on the subject of the application or the interpretation of the provisions of the treaty.

Mr. Henderson said that he and his colleagues felt that if they accepted the Egyptian suggestion they would thereby limit the treaty to ten years, after which the whole treaty would be reopened; that was not their intention; he thought that if the Egyptian delegation wanted some modification to take back with them to Egypt they would be able to say by accepting the British draft that circumstances had so improved as to allow of reopening the question after ten years. If the words in question were removed the whole article became nonsense; he could not face the House of Commons with a ten years' treaty; if the Egyptian delegation did not want the second paragraph of the British draft he was quite ready to go back to his original article 16 as published to the world last July.

Nahas Pasha explained that, with regard to the suggestion that the treaty was only valid for ten years, what he meant was that after ten years the treaty must continue if there was no agreement between both sides.

Mr. Shaw said that the original proposal had been for twenty-five years with a provision for discussing it at the end of that period. The Egyptian proposal meant that the treaty would be for ten years, since, if we opened discussions after ten years, it meant that the treaty was really for ten years. The Egyptian delegation should remember that the British Government was bound as well as the Egyptian, and that after ten years His Majesty's Government might find the provisions of the treaty so onerous that they would wish to change them. Surely it should be agreed by both sides that if, after the end of ten years, they disagreed, the treaty should then run for twenty-five years; otherwise we might as well leave out twenty-five and put in ten.

Mr. Henderson expressed agreement with *Mr. Shaw's* views.

Nahas Pasha said that the original Egyptian draft communicated to the committee made it clear that they understood that the treaty was for merely twenty-five years and to be renewed thereafter. The Egyptian delegation had gone a step forward by saying they were ready to agree that the treaty should continue in force unless modified; they thought that, in view of this admission, *Mr. Henderson* would agree to revision every ten years; this provision would give the other party a chance; all the Egyptian delegation were asking was an opportunity to have a talk, but they did not want one side to be in a position of being able to refuse to have a talk. The British proposal was really taking away with the left hand what had been given with the right.

Mr. Shaw said that both parties were agreed that the treaty should last for twenty-five years and then be discussed if both sides agreed. After ten years modifications would be discussed. The Egyptian formula implied revision every eight years, and the two paragraphs were mutually contradictory, namely, (1) that the treaty should last for twenty-five years, and (2) that discussions should take place after eight years with a view to its revision.

After giving *Nahas Pasha* an opportunity to reply, of which his Excellency did not avail himself, *Mr. Henderson* said that, as the Egyptian delegation did not seem capable of agreeing, there was no alternative for his committee but to go back to article 16 as published and stand by it.

Makram Ebeid asked for time for consideration as this was a very important article.

Mr. Henderson agreed to this suggestion, but repeated that if agreement could not be reached then the position would be as he had just stated it.

Makram Ebeid then suggested that another article of the treaty might be discussed.

Mr. Henderson agreed, and suggested discussion on article 13, since articles 14 and 15 had been already agreed. Before proceeding he asked whether the Egyptian delegation could consider article 16 during the dinner interval.

Nahas Pasha said that there would not be time enough; it would be better to leave it for to-morrow.

Mr. Henderson said that he must put all outstanding questions to the Cabinet, which was meeting to-morrow morning at 10.30. If the Egyptians said they did not want to finish the negotiations before Easter, then they could be left over until after the holidays, when the Cabinet would be sitting. He was quite prepared to sit all night, and had, in fact, cancelled an important dinner engagement. He suggested that the meeting should rise for dinner from 7 P.M. to 9 P.M.

As it was then 7 o'clock, the meeting adjourned.

The Egyptian delegation returned at 9.15 P.M. and were accommodated in the Ambassadors' waiting room, since both sides would thus be able to consider fully and freely the proposals made by the other side. *Mr. Henderson* had a conversation with *Nahas Pasha* and invited him to prepare his views on article 13, and the notes relating to the Sudan and clause 9 in addition. This task, however, occupied so much time that it was not until 1.15 A.M. that *Nahas Pasha* and his colleagues met the British delegation in full conference.

In the meantime, Mr. Henderson was able to announce that the Egyptian delegation had accepted a draft of article 16, which read as follows:—

At any time after the expiration of a period of twenty-five years from the coming into force of the treaty, the high contracting parties will, at the request of either of them, enter into negotiations with a view to such revision by agreement between them of its terms as may be appropriate in the circumstances as they then exist. In case of disagreement, the difference will be submitted to the League of Nations.

Nevertheless, at any time after the expiration of a period of ten years from the coming into force of the treaty, and at intervals thereafter of not less than ten years, negotiations may be entered into with the consent of both the high contracting parties with a view to such revision as aforesaid.

Mr. Henderson further announced that the Egyptian delegation had agreed to a redraft of article 13. This redraft and the Egyptian draft, which was communicated to the Secretary of State by Nahas Pasha, are as follows:—

British Draft.

While reserving liberty to conclude new conventions in future modifying the conventions of 1899, the high contracting parties agree that, without prejudice to Egypt's rights and material interests, the status of the Sudan shall be that resulting from the said conventions. Accordingly, the Governor-General shall continue to exercise on the joint behalf of the high contracting parties the powers conferred upon him by the said conventions.

The Egyptian delegation, however, wished to deal with certain matters in a note which they had roughly drafted as follows:—

By application of article 13, it is understood that Egypt's right of sovereignty over the Sudan remains intact and that administration of the Sudan will be exercised by the high contracting parties in a joint and effective manner.

Accordingly, an Egyptian Deputy Governor will be appointed, as also Egyptian officials to co-operate with the British officials in the administration of the Sudan. Egyptian troops will return to the Sudan after the ratification of the treaty. There must be no restrictions upon Egyptians as to emigration, property and commerce.

On resuming, Mr. Henderson informed the Egyptian delegation that the note was wholly unacceptable, but that it would be submitted to the Cabinet that morning.

The Egyptian delegation then retired to discuss the British redraft of article 9, which is reproduced below, together with a redraft which had been submitted by the Egyptian delegation earlier in the day.

British Draft.

In view of the fact that the Suez Canal, while being an integral part of Egypt, is a universal means of communication as also an essential means of communication between the different parts of the British Empire, His Majesty the King of Egypt, until such time as the high contracting parties agree that the Egyptian forces are in a position to ensure by their own resources the liberty

Egyptian Draft.

While reserving liberty to conclude by future negotiations an agreement modifying the 1899 conventions and settling the Sudan question, and without prejudice to Egypt's right of sovereignty over the Sudan, the high contracting parties agree that the status of the Sudan shall be that resulting from the said conventions.

Accordingly, the administration of the Sudan shall be exercised by the high contracting parties in a joint and effective manner, and the Governor-General shall exercise on the joint behalf of the high contracting parties the powers conferred upon him by the said conventions.

Egyptian Draft.

In view of the fact that the Suez Canal, while being an integral part of Egypt, is a universal means of communication as also an essential means of communications between the different parts of the British Empire, His Majesty the King of Egypt, until such time as the Egyptian army shall be in a position to hold off by its own resources an attack on the Canal pending the

and entire security of navigation of the Canal, authorises His Britannic Majesty to station in the neighbourhood of Ismailia and in an area north of Suez such forces as His Britannic Majesty considers necessary to ensure in co-operation with the Egyptian forces the defence of the Canal; for the same purpose the Royal Air Force depot will be transferred from Abukir to Port Fuad. The British forces will enjoy facilities for communications and will have access to the desert areas on either side of the Canal for purposes of training and manoeuvre. The presence of these forces shall not constitute in any manner an occupation, and will in no way prejudice the sovereign rights of Egypt.

The Egyptian delegation returned at 2.20 A.M.

Nahas Pasha said that he had a few observations to make, and that he had done his best to meet the British delegation on this very important article. Firstly, the Egyptian delegation retained their view regarding their formula "until such time as the Egyptian army shall be in a position." Secondly, they accepted the stationing of the British forces in the neighbourhood of Ismailia. Thirdly, they could not agree to the stationing of British troops north of Suez, as they required this location for the Egyptian army, and Egyptian aviation forces. Fourthly, they agreed to a landing station at Port Fuad, but would like Lord Thomson to explain in further detail what his requirements were. Fifthly, he was prepared to agree to the penultimate sentence of the British note being included in an exchange of notes which would define the localities. Apart from these points, he was quite in agreement with the British delegation, and thought that a big step forward had been taken on this vital question.

Mr. Henderson suggested that it would be best to discuss the third point first, and invited Mr. Shaw to state his views.

Mr. Shaw said that he was sorry that he was unable to agree with Nahas Pasha. If Great Britain was to undertake the responsibilities imposed upon her by the treaty, and to defend Egypt as her ally if attacked, then there must be British troops in positions where they would be most useful. He pointed out that north of Suez was a very big area, and that there was no need for British and Egyptian troops to be together; the British troops could be further north or south than Egyptian troops so long as they were in proximity to the mouth of the Canal and able to exercise on hard sand. He only wanted about 2,800 men there. There were at present 10,000 British troops in Egypt, and of this number he proposed to bring 2,000 home; this would leave 8,000 troops, which his military advisers regarded as absolutely indispensable; in Port Fuad there would only be from 50 to 100 men for administrative purposes. Mr. Shaw emphasised that the proposed reduction to 8,000 was the absolute maximum in view of the requirements of the situation. If the Egyptian army wanted to come close to Suez, he did not mind moving further north; there was no intention of putting British troops on top of the town of Suez.

Nahas Pasha said that Mr. Shaw would remember that at the last discussion he had pointed out that it was necessary for defence purposes that the army should be in the centre, with aviation stations at Suez and Port Fuad. He, Nahas Pasha, had gone very far to meet the British view in agreeing to admit the British forces to Ismailia, and his only stipulation had been that Suez should be left to the Egyptian army; he therefore hoped and expected that this point might be conceded; he did not mean to discuss it at this late hour. With regard to the numbers which Mr. Shaw had mentioned, although the Egyptian delegation thought that 8,000 was too many for the purpose, yet they could all be quite comfortably stationed at Ismailia. Nahas Pasha begged that this point might be conceded, and that the delegations might go home for the night.

Mr. Shaw pointed out that he had never said that the British forces should be only in the centre; what he had said was that there should be forces at both ends of the Canal, and a strategical point in the centre if the Canal was to be properly defended; he had made this quite clear, and so must now make this reservation. He was prepared to put only 50 to 100 men for administrative purposes in Port Fuad, as the Air Force were going there in strength, and in agreeing to the localities of Ismailia and north of Suez, he had, in fact, gone further than his military advisers wanted.

Lord Thomson said that he understood that Egypt had no air force or facilities for repairing machines at present; repair facilities were essential; he thought that it would be most convenient for both parties if the air force depot at Aboukir were to be transferred to Port Fuad, since the repair shops, &c., would be of great service to Egypt for many years to come; he proposed to move the air force stations at Heliopolis and Helouan to Moascar—their numbers were about 1,800, including the flying training school at Abu Sueir; it would be very useful for the Egyptian Air Force to train their pilots there and avoid the expense of sending them to England as they did at present.

Mr. Henderson enquired what proportion of the numbers given by Lord Thomson were mechanics.

Lord Thomson said that the proportion was very high: six mechanics to one pilot at least. With regard to Suez, there would be a landing-ground there which would require fifty men for its upkeep. The ends of the Canal would therefore be held, and there would be the central point at Ismailia. There would be roughly 3,000 airmen altogether on the Canal. He wished to emphasise the importance of the flying training school at Abu Sueir.

Nahas Pasha said that he agreed to the continuance of the training school at Abu Sueir as Lord Thomson had proposed; he was prepared to agree with everything that Lord Thomson had proposed, and to admit the continuance of the flying training school at Abu Sueir, but, with regard to Suez, he could not agree; Suez was to be left for the Egyptian army and for Egyptian aviation purposes. Both sides would use each other's landing-grounds.

Mr. Shaw said that after considering the views of his advisers he could not undertake the responsibility imposed on Great Britain by the treaty with only 5,000 men stationed at Ismailia if the Egyptians wanted to keep Suez. *Mr. Shaw* pointed out that the British troops would not be there as occupying forces, but as friends; he was prepared to station them 14 or 15 miles from Suez near the small Bitter Lake, where they could be quickly moved and would be on hard ground; this area was quite uninhabited, and the troops would not be near the Egyptian army; this provision would, moreover, give room for the 8,000 men which were considered essential for safety; there would be no army troops at Port Fuad. *Mr. Shaw* thought that the Egyptian representatives might meet the British delegation on this point; both sides were desirous of a treaty; we would be friends and Allies, and as the days went on he hoped we would be more and more the friends of Egypt.

Nahas Pasha pointed out that the zone of Ismailia might be extended to the north to contain the total number which *Mr. Shaw* required.

Mr. Henderson reminded *Nahas Pasha* that *Mr. Shaw* had already said that it was impossible to put more than 5,000 men in the neighbourhood of Ismailia.

Mr. Shaw pointed out that there was nothing but soft sand round Ismailia; it would, of course, be possible to build barracks there for any number of troops, but the soft sand all round prevented more than a given number from being trained there. *Mr. Shaw* asked the Egyptian delegation to compare *Mr. Henderson's* original proposals with the present position, and reflect how far the British delegation had gone to meet the Egyptian view; all that we were now asking for was a landing-ground at Suez, no military forces; surely the Egyptian delegation should meet the British view on what he considered absolutely essential.

Nahas Pasha said he was very sorry he could not agree, and he appealed once more to the British delegation not to make his position more difficult.

Mr. Shaw then said that he was ready to move the British forces higher still to the Great Bitter Lake. His information that the neighbourhood of Ismailia was entirely soft, shifting sand had been derived from a British general who had been

in the district for years. At the Great Bitter Lake the British forces could be stationed at the waterside and with the hard desert behind them; this was the ultimate limit which he could admit.

Nahas Pasha said that it might be possible to accommodate the additional troops behind Ismailia as well as to the north.

Mr. Henderson asked why, if the Egyptian delegation admitted that there was room there, they could not allow the troops to go further south instead of further back.

Nahas Pasha said that his idea was that the troops should be located in one large area.

Mr. Henderson said that he agreed if a sufficient proportion of the area consisted of hard sand; but it did not, so why should *Nahas Pasha* object to the troops moving further south. *Mr. Shaw* had already agreed to move 2,000 troops from Egypt. He would remind *Nahas Pasha* that *Mahmoud Pasha* had accepted the full number of British troops as it then was.

Lord Thomson pointed out that the Egyptians would acquire two very fine aerodromes at Heliopolis and Helouan.

Mr. Henderson said that there would be the additional advantage that Egyptian cadets could be trained on the spot.

Makram Ebeid said that they preferred to come to England for training.

Nahas Pasha said that, putting aside the military and strategic aspects of the matter, the position was as follows: He had first of all insisted on the troops being placed on the eastern bank; he had then given way and allowed them to come to Ismailia. If the Egyptian delegation were now to allow them to come to Suez as well, their position would become very difficult.

Mr. Henderson said that the Egyptian delegation had admitted that the troops could go back from Ismailia; how far back could they go?

Nahas Pasha said that they could go back as far as Mahsama Railway Station and Abu Sueir, and as far north as they liked.

Lord Thomson enquired why they should not go south.

Nahas Pasha said that the railway was in the way.

Mr. Shaw said that he could not see what was the difference from the Egyptian point of view between his proposal of a point midway between Ismailia and Suez, where the land was suitable, and the Egyptian proposal for an extension of the Ismailia zone.

Nahas Pasha said that the extension which he had suggested up to Mahsama Station and down to the Sweet Water Canal on the west was the best place for the troops. There was sufficient ground near Mahsama, and if one zone only were selected his task would be simpler. In reply to a further question by *Mr. Henderson*, *Nahas Pasha* explained that his objection to *Mr. Shaw's* proposal was the railway.

Mr. Henderson said that if the purpose of the British troops was the defence of the Canal, then it was natural that they should extend along the Canal. According to the information at the disposal of the British delegation, there was nothing but soft sand at the place that *Nahas Pasha* offered.

Nahas Pasha said that the sand was not soft west of Mahsama.

Mr. Henderson said that his information still was that the sand was soft; the British delegation must press for the place suggested by *Mr. Shaw* between Suez and Ismailia.

Mr. Henderson put this question to *Mr. Shaw*: Supposing the ground now offered by *Nahas Pasha* was found to be unsuitable, would *Mr. Shaw* be prepared to accept another place to the west of Mahsama if *Nahas* offered it?

Mr. Shaw said that this would mean the same argument all over again.

Mr. Henderson asked *Nahas Pasha* whether, supposing it were found that the land was unsuitable, there was any objection to going further in order to get proper

accommodation; he wanted, and he thought Mr. Shaw also wanted, to have all the British troops in one zone if it were possible, but the ground must be suitable.

Nahas Pasha suggested that, if necessary, the troops could go back beyond Mahsama.

General Charles pointed out that near Tel-el-Kebir the land was suitable for cantonments; Tel-el-Kebir was only 10 miles away from Mahsama.

Nahas Pasha said that Tel-el-Kebir was too far; the British forces must be east of 32°.

Mr. Shaw said that, if the Egyptians argued that the troops could not be west of 32°, then the only alternative was that they should go back to the Bitter Lake. If the Egyptians gave them suitable hard land, he did not mind particularly where it was.

Mr. Henderson then put the direct question to *Nahas Pasha*: "You have made an offer of Mahsama; our advisers say that some of the land there is not suitable; if it is found unsuitable, then will you give us the option of choosing other land?"

Nahas Pasha appealed to *Mr. Henderson* not to make his position more difficult. If the locality which he had suggested was not suitable, then the British forces could go to the east bank of the Canal.

Mr. Henderson said that that would at once divide the British forces.

Nahas Pasha suggested that it might be possible to build a bridge over the Canal.

Mr. Murray pointed out that the Suez Canal Company would not allow that. There had been a bridge at Kantara, but it had been necessary to dismantle it.

Mr. Shaw said that he could not recommend the acceptance of *Nahas Pasha's* proposal without knowing what the land was like; he had tried his best to meet the Egyptian point of view.

After further discussion, *Mr. Shaw* agreed to let *Mr. Henderson's* proposal stand; he said that he would not be unreasonable, but that, if no suitable land were available, then the only alternative was to come down to the Bitter Lake.

Mr. Henderson said that *Mr. Shaw* must be safeguarded; the tests of the ground might be carried out in conjunction with Egyptian representatives.

Nahas Pasha agreed to this settlement.

Mr. Henderson asked *Mr. Shaw* how he wanted this settlement to be laid down.

Mr. Shaw said that he would like the settlement laid down as follows: The British delegation accepted provisionally, and provided that their military requirements for 8,000 men were met in the area between Ismailia and Mahsama, an extension of the Ismailia zone to the latter place; if, however, the zone in question was only suitable for 5,000 men, the Egyptian Government would find suitable land in another place west of the Canal (and, *General Charles* interjected, south of Ismailia) for the remaining 3,000 men.

Nahas Pasha agreed to this understanding.

Mr. Henderson said there was a further point still undecided, namely, who was to decide when the Egyptian forces were in a position to ensure the defence of the Canal. He presumed that this was not a case on which the Egyptian Government would want to take Great Britain to the League of Nations.

Nahas Pasha said that it was a mere question of fact.

Mr. Henderson said "Yes, but who decides that fact? Supposing the time came when the Egyptians said that they were ready, how would the question be settled if we did not agree?"

Makram Ebeid said it would be necessary to go to the League of Nations in accordance with the treaty; it was unnecessary to say so in this article, since the whole treaty contained frequent references to the League of Nations.

Mr. Henderson said he hoped that Egypt would not raise the question until the twenty-five years had expired.

Lord Thomson said that he wanted to make it quite clear that the 3,000 airmen who would be stationed on the Canal were not included in the figure of 8,000 mentioned by *Mr. Shaw*.

Mr. Henderson added that the majority of these airmen were mechanics. *Mr. Henderson* then said that what *Nahas Pasha* had called a statement of fact caused much dissatisfaction to the British delegation. What would happen supposing Egypt said in a couple of years that she was in a position to defend the Canal?

Nahas Pasha pointed out that Egypt was going to take a military mission from England to train her army; the Egyptians were reasonable people; it was a mere matter of fact to be decided.

Makram Ebeid said that this was a two-sided treaty and both sides must agree; this was a fact, so there was no need to have it in the clause. The words which the British delegation wished to retain would really mean nothing if left in.

Mr. Shaw pointed out that, on the contrary, there was a very real difference in having the words in.

Mr. Dalton said that the omission of the words would cause great trouble in the House of Commons.

Mr. Shaw reminded the Egyptian delegation that, as he had said at previous meetings, we must either act in good faith or not. If the former was the case, then the Egyptian delegation should agree to retain the words; if the latter was the case, it implied that neither side was to be trusted at all; the British delegation had given and given and given; the question was elementary; both sides should meet to consider whether the situation had arisen or not and come to an agreement; he did not mind saying that His Majesty's Government would be very glad to have the troops back from Egypt, but they must be satisfied that the Canal was safe; to leave out the words to which the Egyptian delegation objected would be an admission that His Majesty's Government were likely to be unreasonable and to refuse to see the facts when they arose; His Majesty's Government were, in fact, being accused of bad faith; so far as he was concerned, he stood where he stood the other day.

Lord Thomson declared that this was a vital matter which could not be left in the air; no military officers would accept it; there must be mutual agreement as to when the moment had arrived; *Makram Ebeid* had agreed that this was so; then what was the objection to saying so?

Mr. Henderson pointed out that he had asked how the question of fact was to be decided and had been given the answer: "By the League of Nations." He did not think that it was a suitable point for the League of Nations; supposing in a very few years, when Great Britain had trained Egypt's army for her, Egypt came along and said that she could now do without Great Britain and that as Egypt was satisfied the British forces ought to go—this would be a very great thing for him to ask the Cabinet to swallow this morning and the House of Commons afterwards.

Makram Ebeid repeated that it was a statement of fact.

Mr. Henderson agreed, but pointed out that it was a fact on which two sides must agree. He enquired why the Egyptian delegation manifested such tremendous anxiety to get rid of their ally. The Egyptian delegation appeared already to be anticipating the day on which they would get rid of the British forces; they said that the two countries were going to be allies and yet they said that they did not trust Great Britain; he was not prepared to go any further than he had gone; the British delegation wanted the question to be mutually agreed on when it arose as between friends and allies.

Makram Ebeid repeated what he had already said more than once, that the treaty was between two parties, that Egypt would try to agree, but if there was no agreement, then it would be necessary to appeal to the League of Nations. If the words which the British delegation wanted were retained, then the Egyptian delegation would wish to add a clause to the effect that a difference of opinion would be referred to the League of Nations in the same way as any other dispute arising out of the treaty.

Mr. Shaw said that he could not agree to the deletion of the words in question, and suggested that the Egyptian delegation should go home and sleep on it.

Lord Thomson agreed.

Mr. Henderson said that it appeared that both sides could not agree; he and his colleagues had explained their position very fully at the beginning of this week; they felt as strongly on the point now as they did then; the only course left was to refer it to the Cabinet meeting to-day; it seemed a great pity that allies could not take a decision on a point which ought to be mutual. *Mr. Henderson* said that he would also submit to the Cabinet the Egyptian rough note on the Sudan.

Mr. Henderson then said that it should be settled as soon as possible who was to prepare the draft of the notes to be annexed to the treaty, which should be prepared as early as possible to-day. It was so late now that a further meeting was impossible before 5 p.m. (the Egyptian delegation stated that they could not face a meeting in the forenoon); it might be necessary to sit late again this evening, and through the night if necessary, in order to finish the notes. There was also the question of the method of accommodation for the troops; His Majesty's Government would hand over to the Egyptian Government the sites at present occupied in Cairo and Alexandria and would expect Egypt to provide equivalent accommodation; the question arose whether Egypt would build for us and pay, or we build for ourselves and Egypt pay us; the Egyptian delegation would remember that under the note annexed to his proposals of last July Mahmoud Pasha undertook to provide equivalent accommodation; the Egyptian delegation might think the question over and say at the next meeting which plan they preferred, and the question could then be considered.

Nahas Pasha agreed.

The discussion then turned on article 10.

British Proposal.

In view of the friendship between the two countries and of the alliance contemplated in the present proposals, the Egyptian Government when engaging the services of foreign officials will as a rule engage British subjects.

Egyptian Proposal.

To be omitted.

Mr. Henderson said that this article had been discussed but no agreement had been reached; he and his colleagues suggested that the Egyptian delegation should accept the principle of the article and incorporate it in a note.

Makram Ebeid explained for *Nahas Pasha* that there was no question of the Egyptian delegation accepting article 10 at all; as they had pointed out at an earlier meeting, the Egyptian Government at present had full liberty.

Mr. Henderson reminded the Egyptian delegation that it was not the intention of His Majesty's Government to retire from Egypt in order to let others in; he had spoken at an earlier meeting of peaceful penetration; His Majesty's Government were quite clear on the point that if British officials left no foreign officials were to come in; surely, as allies, Egypt should say that she would take foreign officials with the necessary qualifications from Great Britain if she wanted any; it seemed to him a very easy point.

Nahas Pasha said that he had already explained his view at an earlier meeting; there was no such distinction at present; the difference lay between a question of courtesy and one of obligation.

At this stage *Nahas Pasha* said that he was tired and would like to adjourn.

Mr. Henderson agreed, and said that the discussion would continue at 5 p.m.; he had wished to finish all the articles and leave only the notes over for further consideration; he must now tell the Cabinet that article 10 also had not been settled.

The meeting adjourned at 4.10 A.M.

[J 1069/4/16]

No. 22.

Foreign Office to War Office.

Sir,

Foreign Office, April 14, 1930.

I AM directed by Mr. Secretary Henderson to acknowledge the receipt of your letter of the 2nd April relative to certain points which have arisen in the course of discussions on the subject of the current Anglo-Egyptian treaty negotiations.

2. I am to request you to inform the Army Council that Mr. Henderson does not anticipate that it will be possible to secure the requirements suggested under the heading paragraph 4, Army Note (ii) in the letter under reply. In view of the fact that British civil officials and their subordinates do not at present enjoy the same judicial privileges and immunities as members of the armed forces, Mr. Henderson fears that he can hold out no hope of supporting, much less of securing, the claim for the inclusion of the families and servants of members of the British armed forces within the privileged category. Quite apart from the merits, such an extension of the judicial privileges enjoyed by the personnel of the British armed forces would be impossible to justify in the eyes of the British civil community.

3. The observations of the Army Council have been noted with regard to the presence of Egyptian troops in the immediate vicinity of the Suez Canal. I am, however, to point out that Egyptian troops are already stationed at El Arish in Sinai and, consequently, have to pass through the Canal Zone on their way to and from this station. This consideration seems sufficient in itself to render their exclusion from the Canal in the proposed treaty very difficult of attainment.

4. Copies of this letter are being forwarded to the Air Ministry and Admiralty.

I am, &c.

JOHN MURRAY.

[J 1259/4/16]

No. 23.

Mr. A. Henderson to Mr. Hoare (Cairo)

(No 144)

(Telegraphic)

Foreign Office, April 14, 1930.

IT will probably be necessary during the course of the next few hours to consult Governor-General in Council and to ask him for very early answer, as I am trying to reach agreement on all important issues before Parliament rises on Thursday, 17th April.

[J 1313/4/16]

No. 24.

Preliminary Meeting of the British Committee on April 15 at 4 p.m.

[Brigadier-General A. C. Temperley, C.M.G., D.S.O., was also present, in addition to the usual members.]

AFTER discussing the form in which the decisions of the Cabinet taken that morning should be communicated to the Egyptian delegation, *Mr. Henderson* raised the question of the provision of accommodation for the British forces on the Canal. He said the question was whether the War Office would construct new barracks to replace those ceded to the Egyptian Government after the payment of the estimated cost by the Egyptian Government, or whether the Egyptian Government would construct the barracks themselves. He had put the point to the Egyptian Minister of Finance, who had said the Egyptian Government would probably prefer to build the barracks, but had enquired which barracks the British Government claimed as their own. He, *Mr. Henderson*, had claimed all of them, but was not certain that he was on sound ground. The position was, in fact, so uncertain that it might be better to fix a definite figure and then construct as and when the War Office liked

Mr. Shaw said that he had gone into the question again with his military advisers. They had said that unless they could see the land and get an approximate idea of the sites, they could not put up an estimate. The same thing held good as regards the provision of amenities; unless the area was known nothing could be done. If a firm agreement could be reached with the Egyptian Government, and the latter proved reasonable, it might be possible to arrange matters on the spot.

Mr. Henderson then proposed that the draft note which had been prepared that morning should be considered. He then read it through section by section.

Section (1).

No observations were offered.

Section (2)

General Charles pointed out that the wording of the last sentence and the last sentence but one was not as strong as that of the note agreed upon with Mahmoud Pasha.

Mr. Campbell said that this point had been carefully examined. The present wording represented an effort to meet British requirements and at the same time respect Egyptian susceptibilities.

Mr. Shaw thought that the revised wording was sufficient and did not consider that the previous wording would achieve anything more.

Sir Percy Loraine suggested that in place of the word "military" the words "any personnel of their armed forces" should be introduced.

Mr. Henderson accepted this suggestion.

Section (3).

No observations were offered.

Section (4).

It was decided, after discussion, that the figure should be altered to 8,000, and that the words "other than Air Force personnel" should be introduced.

General Charles said that an extension of the Ismailia zone as far as Mahsama station had been promised. It should be laid down that the War Office had the right to build permanent accommodation there.

Mr. Henderson said that this must be stated quite clearly. Were they entitled to build that accommodation?

Mr. Beckett said that they would be, if in article 9 the words "including the area between Ismailia and Mahsama railway station" were added.

General Charles pointed out that no definition of the westerly limit of the training area had been laid down; there was some hard desert to the west of Ismailia; how far could the British forces go?

Mr. Beckett asked whether there was not some misunderstanding; the question arose out of the permission which had been given to station troops at Ismailia, or, if the ground there was unsuitable, elsewhere. If the Egyptians were right in saying that the ground was suitable, then the area as far as Mahsama had been secured; if they were wrong, they had to offer a site elsewhere.

Mr. Shaw pointed out that Nahas Pasha had agreed to allow the troops to go as far north as they liked. He felt that, as it was now worded, the proposal was as good a one as they could expect to get. He suggested, however, that it would be well to draw a distinction between "camping" and "accommodation."

It was further suggested that it might be well to put the provisions regarding the Royal Air Force into a separate paragraph, and it was finally agreed that the draftsmen should get together and settle that point.

Section (4a).

No observations were offered.

Section (5).

Discussion took place as regards the arrangements under which the barracks were to be handed over.

Mr. Shaw suggested that the paragraph should be left as it was. He pointed out that if the Egyptian Government wished to secure the evacuation of Cairo by British troops they would lose no time in building the new barracks. The responsibility rested with them.

Section (6).

General Charles pointed out that there were certain civilians employed by the British forces who had no military status; there were also the wives and children of soldiers. What was their position? Did they have the same rights as members of the forces?

Mr. Campbell said that this point had been fully considered by the Inter-Departmental Committee, and it had been decided that a claim for special privileges for wives and families was far too sweeping. As the persons in question were not subject to the Army or Air Force Acts they would, if the claim were admitted, be subject to no jurisdiction whatever. There was no reason why the families of civilian employees should be in a different position. The claim was stronger in the case of civilian officials, but they also were not subject to the Army or Air Force Acts; the question would, in any case, undergo some change when consular jurisdiction was discussed. This would probably be a good moment to raise the matter.

General Temperley said that soldiers' families actually had these privileges in practice, though their legal right to them was doubtful; could not their position be safeguarded in the treaty?

Mr. Henderson considered that the note was already over-loaded and that no further clauses should be added.

Air Vice-Marshal Newall then pointed out that no fresh clause regarding the Royal Air Force was required, since under article 9 His Majesty's Government had the right to station "such troops as they considered necessary" in the Ismailia zone. Therefore, the words "other than Royal Air Force personnel" were superfluous.

Mr. Dalton suggested that in paragraph 4 the expression "men of the land forces" should be used.

The suggestion was agreed to.

Draft Egyptian Note.

Sir,

I wish to place on record the understandings which have been reached between us in regard to various important matters arising out of, or in connexion with, the treaty which we have signed to-day.

In regard to matters of a military character, we are agreed as follows:—

(1) British personnel shall be withdrawn from the Egyptian army and the functions of the inspector-general and his staff shall terminate.

(2) The Egyptian Government, desiring to perfect the training of the Egyptian army, and intending, as a natural consequence of the alliance which has been established, that such foreign instructors as they may deem necessary shall be chosen from amongst British subjects only, will avail themselves of the advice of a British military mission. His Majesty's Government in the United Kingdom will furnish the military mission which the Egyptian Government desire, and will also undertake to receive, and provide training in the United Kingdom for, any personnel of the Egyptian forces which the Egyptian Government may desire to send for the purpose of being trained. In the circumstances created by this treaty, the Egyptian Government will naturally not desire to send any military personnel to be trained abroad elsewhere than in the United Kingdom.

(3) In the interests of the alliance and in view of the possible necessity of active co-operation between the British and Egyptian forces, the armament and equipment of the Egyptian forces shall not differ in type from those of the British forces. His

Majesty's Government in the United Kingdom undertake to use their good offices to facilitate the supply of such armament and equipment from the United Kingdom whenever the Egyptian Government so desire.

(4) With reference to article 9 of the treaty, it is understood that, if, after a survey of the ground in the neighbourhood of Ismailia, the two Governments are not agreed that there is a sufficient area of hard desert, west of the Canal and in the immediate vicinity of Ismailia or westwards between Ismailia and Mahsama railway station, to provide adequate camping and training grounds for 8,500 troops, the Egyptian Government will provide, at some place to be agreed upon, situated south of Ismailia and west of the Canal, a further area of land adequate and suitable for the accommodation and training of 2,500 men.

(4a) The Egyptian Government will accord, and provide where necessary, all reasonable means of communication and access to and from the localities where the British troops are situated, and will also accord facilities at Port Said and Suez for the landing and storage of British military material and supplies.

(5) The Egyptian Government will provide for the British troops, free of cost to the Government of the United Kingdom, in the localities agreed upon in accordance with article 9 of the treaty and paragraph (4) above, the lands and permanent accommodation, including an emergency water supply, suitable according to modern generally recognised standards and satisfactory to His Majesty's Government. In addition to providing the accommodation above mentioned, the Egyptian Government will take steps, having regard to the character of the localities where British troops will be stationed, to furnish reasonable amenities by planting trees, gardens, &c., for the troops.

When such accommodation is fully completed, the British forces then present in other parts of Egypt will withdraw therefrom and will hand over to the Egyptian Government all land and buildings so vacated, other than those in private ownership.

(6) Subject to any modifications which the two Governments may agree to introduce in the future, the immunities and privileges in jurisdictional and fiscal matters, including freedom from taxation, at present enjoyed by the British forces in Egypt, will continue to be extended to all the armed forces of His Britannic Majesty in that country. The Egyptian Government will take the necessary steps to ensure that the altered conditions after the transfer of the British troops to the localities mentioned above will not render their position as regards immunities and privileges in any way less favourable than that which they at present enjoy in Egypt.

(7) Unless the Governments agree to the contrary, the Egyptian Government will prohibit the passage of aircraft over the territories situated on either side of the Suez Canal and within 20 kilom. of it. This prohibition will not, however, apply to the forces of the two Governments or to services maintained by genuinely British or Egyptian organisations, operating under the authority of the Egyptian Government.

(8) The Egyptian Government will give all necessary facilities to British aircraft, personnel and stores on passage to and from the aerodromes placed at the disposal of the British forces in accordance with article 9 of the treaty, and for the purpose of such passage will secure the maintenance and availability at all times of such aerodromes and landing grounds in Egyptian territory as are required. His Majesty's Government will give reciprocal facilities in their aerodromes in the Canal zone to Egyptian military aircraft, personnel and stores on passage to and from Egyptian aerodromes.

In regard to other matters :—

(9) The Egyptian Government, though they intend to abolish the European Bureau of the Public Security Department, are resolved, nevertheless, to retain, for at least five years from the coming into force of the treaty, a certain European element in their city police, which will remain for the same period under the command of British officers.

(10) The Egyptian Government are anxious to have expert assistance for the extensive programme of internal reforms which they contemplate. They intend to maintain, for at least five years from the date of the coming into force of the treaty, the employment of British subjects in the posts of Financial Adviser to the Egyptian Government and Judicial Adviser to the Ministry of Justice. The occupants of these posts hold their appointments as Egyptian officials from the Egyptian Government.

(11) The Egyptian Government, in view of the treaty of friendship and alliance signed to-day, will naturally, when engaging the services of foreign experts, as a rule give preference to British subjects possessing the necessary qualifications.

(12) The two Governments agree that the question of the indebtedness of the Sudan to Egypt shall now be examined with a view to settlement on fair and equitable lines, and that for this purpose a representative of the Treasury of the United Kingdom and of the Egyptian Ministry of Finance should discuss the question as soon as the treaty comes into force.

(13) With reference to the interpretation and application of article 13 of the treaty, the two Governments are agreed that, in recognition of the share of Egypt in the working and development of the system of administration and legislation for the Sudan created by the agreement of 1899, and without prejudice to the conjoint sovereignty of the high contracting parties over the territory, the Governor-General, in whom the supreme military and civil command in the Sudan is vested, shall be recommended in the exercise of the said powers to select and appoint a certain number of Egyptians possessing the necessary qualifications to fill suitable vacancies in administrative posts in the Sudan as and when they occur. They are also agreed that there shall be no discrimination in the Sudan between British subjects and Egyptian nationals in matters of commerce and immigration or the possession of property. It has further been agreed that, if the treaty is worked in the same friendly spirit in which it has been negotiated, His Majesty's Government in the United Kingdom will be prepared to examine sympathetically a proposal for the return to the Sudan of an Egyptian battalion simultaneously with the withdrawal of the British forces from Cairo.

(14) As regards the method by which international conventions are to be made applicable to the Sudan, the two Governments are agreed as follows :—

The conventions which it will be desired to apply to the Sudan will naturally be conventions of a technical or humanitarian character.

In cases where such a convention is signed on behalf of both Egypt and the United Kingdom, and it is desired that the convention should be applied to the Sudan, the British and Egyptian delegates will, at a convenient moment, make a joint declaration, to be duly placed on record, to the effect that their signatures on behalf of Egypt and the United Kingdom respectively are intended, taken together, to cover the Sudan, and (in cases where the convention requires ratification) that, when the ratifications of both the King of Egypt and His Britannic Majesty have been deposited, the convention will become applicable to the Sudan in accordance with its terms. If no such declaration is made, the convention will not become applicable to the Sudan, unless by the method of accession, to which reference is made later.

In cases where such a declaration has been made, no special mention would be made of the Sudan in the instruments of ratification.

In some cases, where the convention provides for subsequent accession, and it may be convenient that the convention should be applied to the Sudan by this method, accession would be effected by a joint instrument signed on behalf of Egypt and the United Kingdom respectively by two persons duly appointed for the purpose. The method of depositing the instrument of accession would be the subject of agreement in each case between the two Governments. In such cases no question of ratification arises.

At international conferences where such conventions are negotiated, the Egyptian and British delegates would naturally keep in touch with a view to any action which they may agree to be desirable in the interests of the Sudan.

(15) With regard to article 12 of the treaty, the Egyptian Government, anxious to mark the satisfaction which the appointment of a British representative as the first Ambassador in Egypt affords them, intend to reserve, during the period of the continuance of the treaty, the highest diplomatic rank in Egypt to the representative of His Britannic Majesty.

Record of Proceedings at Tenth Meeting with the Egyptian Delegation on April 15 at 5 P.M.

THE following were present :—

Egyptian Delegation.

Nahas Pasha.
Wacyf Ghali Pasha.
Osman Moharrem Pasha.
Makram Ebeid Bey.
Mustapha Sadek Bey.
Kamel Selim Bey.

British Delegation.

Mr. Henderson.
Mr. Shaw.
Sir R. Vansittart
Sir P. Loraine.
Mr. Dalton.
The High Commissioner for New Zealand.
Major-General Sir K. Wigram.
Major-General Charles.
Air Vice-Marshal Newall.
Brigadier Temperley
Major R. G. Casey.
Mr. Clutterbuck.
Mr. Selby.
Mr. Murray.
Mr. Beckett.
Mr. Campbell.
Mr. Scrivener.
Mr. Mack.

The Egyptian Delegation handed in, on their arrival, the two following draft notes with regard to the Egyptian army, advisers and police :—

"Egyptian Army.

"1. Existing arrangements, under which the Inspector-General and his staff exercise certain functions, shall terminate.

"British personnel shall be withdrawn from the Egyptian forces.

"2. As the Egyptian Government desire to avail themselves of the advice of a British military mission, His Britannic Majesty's Government in the United Kingdom and Northern Ireland undertake to furnish such a mission. After dispensing with the services of such mission, the Egyptian Government, should they deem it necessary to have recourse to foreign military instructors, will choose them from amongst British subjects.

"3. In the interests of the close co-operation between the two allied armies, the armament of the Egyptian forces shall not as much as possible differ in type from those of the British forces.

"His Majesty's Government undertake to use their good offices to facilitate the supply of such armament from Great Britain whenever the Egyptian Government so desire."

"Advisers and Police.

"The Egyptian Government intend to dispense with the services of the Financial and Judicial Advisers, as also to abolish the European Bureau of the Public Security Department. But the Egyptian Government will retain, for five years from the coming into force of this treaty, a certain European element in their city police, which will remain for the same period under the command of British officers.

"With a view to facilitating the gradual substitution of Egyptian officials to the said European element, and thereby securing the harmonious working of the police organisation, the Egyptian Government will annually dispense with the services of one-fifth of European police officials. The Egyptian Government intends, however, to employ for the whole period British police commandants at the head of such European element."

Mr. Henderson explained that Lord Passfield and Lord Thomson had to be present at a debate in the House of Lords, and were consequently unable to come yet; he proposed, however, to get on with the business without waiting for them. There were three or four points still outstanding from the discussions of last night and early this morning. The meeting could return to them now. The Egyptian delegation had handed in the drafts of two notes concerning the army and advisers and police; the British delegation were preparing a note concerning a number of points; he had hurriedly compared both drafts, and he thought that little difference existed between them; he hoped to be able to give the Egyptian delegation shortly the British draft note. Mr. Henderson thought that it would, perhaps, be better, before discussing the notes, to straighten out the points on which he had had to consult the Cabinet this morning.

Nahas Pasha agreed to this suggestion.

Mr. Henderson said that the first point was article 9. The Egyptian delegation would remember that in this article they had eliminated the words "the high contracting parties agree"; he and his colleagues had told the Egyptian delegation at the last meeting that they could not accept the deletion of these words, and the same position was adopted by the Cabinet this morning.

Secondly, with regard to article 13 (Sudan), the Egyptian rough note which had been submitted at the last meeting was not acceptable to the Cabinet, who thought that by agreeing to the insertion of the words "without prejudice to Egypt's rights and material interests" in the article, the British delegation had gone far to meet the views of the Egyptian delegation; with regard to that note, the British delegation would be willing to consider the matter further and to put up an alternative draft.

On the question of Capitulations (article 11), the Cabinet also considered that the British delegation had tried their best to concede something to Egypt; the meeting would remember that no decision had been reached on this point the other day. He was prepared either to retain the reference in the British draft to the capitulatory system or to delete it if the Egyptian delegation wished to eliminate any reference to the Capitulations.

With regard to article 10, the Cabinet thought that a brief and moderate reference to the engagement of British officials should be made in a note.

Nahas Pasha said that, firstly, with regard to article 9, he regretted that he and his colleagues could not see their way to accept the proposed British wording; they had gone to their extreme limit on this point, and, moreover, they had made many concessions already in this article.

Secondly, with regard to article 13, he was sorry that the Egyptian rough draft had been regarded as something new; the Egyptian wording was only a strict application of the 1899 convention as the basis of the administration of the Sudan; the Egyptian draft was, therefore, the indispensable consequence of the article itself.

Thirdly, with regard to the Capitulations, he had not quite understood Mr. Henderson's remarks, and would ask him to be so kind as to repeat them.

Fourthly, any reference to the engagement of civil officials, as the Egyptian delegation had pointed out at previous meetings, was unacceptable, since it imposed a new restriction.

Nahas Pasha concluded by saying that, having already conceded so much, he and his colleagues hoped that their friendly attitude and spirit would be appreciated by Mr. Henderson and his committee, and that that appreciation would lead to the conclusion of the treaty which was so much desired.

Mr. Henderson said that he was extremely sorry to hear the conclusions of the Egyptian delegation with regard to article 9. He pointed out that, in comparison with the negotiations of last July, the British delegation had made one of the most important concessions that could be made in the treaty and that, in view of the complete departure from article 9 as originally proposed, the Egyptian delegation were asking the British delegation to do the impossible in desiring them to eliminate these words. In view of the Cabinet decision, he could only say that, unless the Egyptian delegation could reconsider their attitude, the negotiations were at an end.

Nahas Pasha said that he would like to retire and discuss the position with his colleagues; he would then give a final decision.

The Egyptian delegation then retired and returned after twenty minutes.

Nahas Pasha explained that as this decisive stage had been reached, he and his colleagues thought fit to communicate with their Cabinet in Egypt; they would like to have the proposed British note on the Sudan in order to submit it to their Cabinet at the same time.

Mr. Henderson said that he would try to let the Egyptian delegation have a copy of the British alternative draft regarding the Sudan this evening, but that he had hoped to get on with the other articles and notes. How soon did *Nahas Pasha* expect to receive a reply from Egypt?

Nahas Pasha thought he would probably have a reply in two or three days, and when it arrived the delegations could meet again.

Mr. Henderson said that there was no use contemplating late sittings now, as it was impossible to complete the negotiations, as both parties desired, before the House of Commons rose on Thursday next. He suggested that the meeting should adjourn until to-morrow, and he hoped then to be able to hand the alternative note on the Sudan to the Egyptian delegation.

With this *Nahas Pasha* agreed.

It was arranged that the next meeting should be held at 10.30 A.M. on the following day.

[J 1252/4/16]

No. 26.

Mr. Hoare to Mr. A. Henderson.—(Received April 15).

(No. 184.)

(Telegraphic.)

Cairo, April 15, 1930.

REUTER telegraphs that negotiations were still in progress at 3 A.M. "in an effort to remove a crisis."

In these circumstances, I report on chance of its usefulness unconfirmed story, which reached me a few days ago, that *Maher* telegraphed to consult *Nokrashi* on some point unknown, and that reply was "be intransigent."

Since I drafted this, the Sudan agent has brought me a report, from a source which he regards as reliable, that, in reply to a telegram from *Nahas*, the Ministers here telegraphed yesterday that, if he could not obtain full satisfaction in regard to Sudan, he should at least insist on unrestricted access of Egyptians to the Sudan.

In subsequent conversation secretary of *Wafd* is stated to have explained to a *Wafdist* that, if this point were secured, Egyptians would be able to establish contact with Sudanese, "and thus within three or four years both nations could be of one mind with their hand against the British."

[J 1259/4/16]

No. 27.

Mr. A. Henderson to Sir J. Maffey (Khartum).

(Telegraphic.)

Foreign Office, April 15, 1930.

POINT has now been reached where it is permissible to say that an agreement is within sight on the general lines of the 1929 proposals. Sudan is only major point outstanding, and the Egyptians have been induced with the utmost difficulty to accept article 13 as it stands with the addition of the words "without prejudice to Egypt's rights and material interests" after "the high contracting parties agree that." This is from their point of view a face-saving phrase, and from ours a declaratory admission of rights and interests which are inherent in 1899 convention and water agreement.

They have, however, suggested an entirely unacceptable exchange of notes which refers to Egyptian right of sovereignty over the Sudan and provides *inter alia* for "joint and effective administration of the Sudan," an Egyptian Deputy Governor-General, and Egyptian administrative officials "to co-operate with British officials," and the return of Egyptian troops after ratification of the treaty.

The Cabinet have authorised me to refuse this note categorically and to counter it with an alternative note, of which text is given in my immediately following telegram.

Having regard to the importance which from the point of view of the permanent interests of the Sudan I know you attach to the conclusion of an Anglo-Egyptian Agreement, I hope I may rely upon you and your council to assist in conclusion of such an agreement by accepting this note or by suggesting some helpful alternative.

Negotiations will be resumed at 5 o'clock this evening and will probably be protracted. I hope that I may receive your reply while they are still in progress.

(Repeated to Cairo, No. 145.)

[J 1259/4/16]

No. 28.

Mr. A. Henderson to Sir J. Maffey (Khartum).

(Telegraphic.) R.

Foreign Office, April 15, 1930.

FOLLOWING is text of note referred to in my immediately preceding telegram:—

"It is desirable to place on record our common understanding as to the interpretation and application of article 13 of the treaty signed to-day. We have agreed that in recognition of the share of Egypt in the working and development of the system of administration and legislation for the Sudan created by the agreement of 1899, and without prejudice to the conjoint sovereignty of the high contracting parties over the territory, the Governor-General, in whom the supreme military and civil command in the Sudan is vested, shall be recommended in the exercise of the said powers to select and appoint a certain number of Egyptians, possessing the necessary qualifications, to fill suitable vacancies in administrative posts in the Sudan as and when they occur. We have also agreed that there shall be no discrimination in the Sudan between British subjects and Egyptian nationals in matters of commerce and emigration or the possession of property.

"It has further been agreed that, if the treaty is worked in the same friendly spirit in which it has been negotiated, His Britannic Majesty's Government will be prepared to examine sympathetically a proposal for the return to the Sudan of an Egyptian battalion, with the withdrawal of the British forces from Cairo."

(Repeated to Cairo No. 146.)

[J 1375/4/16]

No. 29.

Preliminary Meeting of the British Committee on April 16, at 9 A.M.

IT may be useful to have on record the discussions which took place in the British Committee on the morning of the 16th April, although the record of proceedings at the eleventh meeting with the Egyptian delegation contains the decisions taken. The British members present were those at the subsequent meeting.

Mr. Henderson asked *Mr. Beckett* to report to the committee the result of his conversation with the Egyptian delegation at the Hyde Park Hotel last night.

Mr. Beckett reported that the Egyptians had started the discussion by contending that our formula implied the fact that there should be agreement as to when Egypt was in a position to ensure the defence of the Canal by herself and provided for reference to the League of Nations in case of disagreement; they had objected to the British text as actually worded on the ground that it excluded reference to the League of Nations. *Mr. Beckett* had pointed out that this contention was incorrect in view of the second sentence of article 16 as already agreed upon, whereas, under the text which the Egyptians proposed for article 9 they could go to the League of Nations in a few weeks if they wished. After this conversation, the Egyptian delegation had deliberated, after which they had informed *Mr. Beckett* that they would say that, for a period of ten years the question of fact, namely, whether the Egyptian army was fit to defend the Canal, should be settled by common agreement; afterwards, however, it should be made possible for the question to be raised unilaterally, like any other point in the treaty. They were prepared to put

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this on paper and to leave a blank space for the number of years. Mr. Beckett had said that he could associate himself with nothing less than the full period of twenty-five years. They had then endeavoured in collaboration to discover a new formula, but had made no progress whatever. Mr. Beckett handed in the text, which the Egyptian delegation would probably communicate this morning.

Omit the words "the high contracting parties agree that" in article 9, and add the following:—

"It is understood that during the period of . . . years from the date of the coming into force of the present treaty, the question whether the Egyptian forces are in a position to ensure by their own resources the security of the Canal shall be only raised and decided by the high contracting parties in common agreement."

Mr. Henderson said that it was for the committee to decide whether to see the Egyptian delegation that morning or not. There were two important questions, firstly, article 9, and, secondly, the Governor-General's reply to the telegram which had been addressed to him; the latter involved telling the Egyptian delegation that we could not give them a revised draft note on the Sudan yet. Mr. Henderson had seen the Prime Minister that morning, who thought that it would be best to get an adjournment until after Easter and let the Egyptian delegation send what they wanted to Cairo in the meantime, but we had not yet read the note on the Sudan for which they had asked in order that they might send it to Cairo. Mr. MacDonald thought that Sir John Maffey might be approached again by telegraph in order to see whether the draft could be revised and sent to the Egyptian delegation. We could not present to the Egyptians the note about the Sudan which had been before the Cabinet until Sir John Maffey's observations had been received. We had not yet told the Egyptian delegation that we could not agree to their proposal for a deputy Governor-General; this point, and, in fact, all the important Egyptian points, were definitely ruled out by Sir John Maffey's telegram.

Mr. Dalton expressed the opinion that the Egyptians would say that Sir John Maffey was putting an arbitrary interpretation on the 1899 Convention.

Mr. Henderson enquired whether there was any disposition on the part of the committee to meet the Egyptians by limiting article 9 to ten years.

Sir P. Loraine pointed out that this would be opposed to article 16 and that there would be two different periods of currency for the treaty.

Mr. Henderson said that revision by mutual agreement in ten years was provided for in article 16. Could the question of the troops be made the subject of consideration after ten years?

Lord Thomson pointed out that the words used in article 16 were "negotiations may be entered into," not "shall"; the distinction was important.

Mr. Henderson enquired whether there was any possibility of our agreeing to consent to a period of ten years for article 9 in return for the omission of any note on the Sudan.

Sir R. Vansittart expressed the view that it would be impossible to accept ten years for article 9.

Mr. Shaw agreed and said that this proposal would make the treaty only valid for ten years.

Mr. Henderson pointed out that ten years would apply to article 9 only.

Mr. Shaw said that the treaty would not be much good when the troops had gone.

Lord Passfield thought there would be no danger in going to the League of Nations after ten years.

Mr. Henderson pointed out that we had accepted a wording which implied that the time might come when the British army could go.

Mr. Shaw said that what the Egyptian delegation meant was that there should be recourse to the League of Nations after ten years. He thought this period altogether too short for a provision that would enable Egypt to go to the League of Nations whatever the facts were, with or without our agreement. Egypt's ability to defend the Canal was a question of opinion, not of fact.

Mr. Henderson said that it was clear from the discussion which had taken place that we could not agree to any change which did not provide for joint agreement within the period of the treaty.

Mr. Shaw agreed and added that the Egyptian delegation had come to London not to discuss minor alterations, but fundamental alterations of principle to which we could not consent, and this was one of them.

Mr. Henderson said that article 16, as amended and offered to the Egyptian delegation, marked a great effort to meet them. He would have liked to tell the Egyptian delegation to let their people know that we stood pat on article 9; he had reminded them yesterday that we had already made two big concessions on that article. Moreover, in article 13 we had made a great concession to them by inserting the words "without prejudice to Egypt's rights and material interests," which Mr. MacDonald did not like. On the Sudan we could give the Egyptians nothing without further consultation with Sir John Maffey, and could not promise them anything.

The committee agreed, and Mr. Henderson retired to convey these decisions to the Egyptian delegation, who were accommodated in the Ambassadors' waiting room.

Mr. Henderson returned shortly after 12 o'clock and said that the Egyptian delegation had made a fresh proposal. They had offered to accept the British draft of article 9 if the British delegation would agree to a modification of article 16; they had pointed out that the British article 9 precluded them from raising the question of the defence of the Canal for twenty-five years, and had said that it would make things easier for them if this period of twenty-five years could be shortened so as to give them an opening to appeal to the League of Nations for a revision at an earlier date in the event of the two parties failing to agree. The Egyptian delegation had suggested that the period should be fifteen years, but that the opening words of article 16 should not be changed. He, Mr. Henderson, had replied that he would lay this suggestion before the committee.

As regards article 13, the Egyptian delegation had invoked Projects A and B in Mahmoud Pasha's Green Book in so far as they related to the return of the Egyptian battalion. Mr. Henderson read out the clauses in question, which are in the following terms:—

Project A.—The Anglo-Egyptian condominium in the Sudan shall continue in the conditions resulting from existing conventional arrangements or from any modifications of the said arrangements which may in the future be made as the result of agreement between the high contracting parties.

The rights and powers of the high contracting parties under the said conventions shall continue to be exercised on their joint behalf by the Governor-General appointed in accordance therewith.

An Egyptian battalion shall be made available in the Sudan for the protection of the Governor-General, to whose staff an Egyptian officer shall be attached.

Project B.—While reserving liberty to conclude new conventions in future modifying the conventions of 1899, the high contracting parties agree that the status of the Sudan shall be that resulting from the said conventions. Accordingly, the Governor-General shall continue to exercise on the joint behalf of the high contracting parties the powers conferred upon him by the said conventions, and on the coming into force of the present treaty an Egyptian battalion shall be stationed in the Sudan.

The Egyptian delegation had pressed him very hard to accept one or other of these wordings. The Egyptian delegation were also anxious to put up a note asking for the return of the *status quo ante* 1924, namely, the readmission to the Sudan of Egyptian administrative officials. Mr. Henderson had told them that they must make those proposals in writing, and that he would have to consult his committee and, probably, the Cabinet. Mr. Henderson enquired how many Egyptian officials had been turned out of the Sudan in 1924.

Sir R. Vansittart said eighty-four.

Mr. Henderson said that by asking for a return to the pre-1924 position the Egyptian delegation were going back on their suggestion for a deputy Governor.

Sir R. Vansittart suggested that on the first point which the Egyptian delegation had raised, namely, article 16, twenty years would be a fair compromise.

Mr. Henderson said that if the period of twenty years would cover the Sudan and all the rest of the treaty, including article 9 as it stood, with a view to letting feelings of friendship grow between the two countries in the meantime, we could defend it.

Sir R. Vansittart enquired whether *Mr. Henderson's* contention was to stand on article 13 as amended.

Mr. Henderson answered in the affirmative, and pointed out that by cutting the period of the treaty down to twenty years we were giving the Egyptians five years earlier in which to approach the League of Nations. If the Egyptians agreed to his suggestion, they could not raise the question of the return of officials to the Sudan with the League of Nations for twenty years.

Lord Thomson said that the Egyptian view regarding the return of the battalion was an obstacle.

Mr. Henderson said that that applied also to the question of the return of officials. The Egyptian delegation had also raised the point that there should be no discrimination against Egyptians with regard to emigration, commerce and property. *Mr. Henderson* pointed out that we were getting from the Egyptians an acknowledgment of the 1899 Convention which the Wafd had never before acknowledged, and their argument that they wanted an interpretation of that convention was hard to resist.

Mr. Shaw said that the line which had been adopted all along by the Egyptian delegation had been to take words from their contexts and accept them when it suited them to do so.

Sir P. Loraine pointed out that the delegation's arguments with regard to the 1899 Convention was not very impressive, since the Wafd only came into existence long after the conclusion of that convention.

Mr. Henderson said that the Wafd had never accepted the convention, anyhow.

Mr. Henderson then read the resolutions passed by the Governor-General's Council last January and his reply. *Mr. Henderson* said that these were our terms of reference.

Lord Passfield pointed out, with regard to the second paragraph of the resolutions, that we had not secured the wording in article 13 "the status of the Sudan shall be that which has resulted from the said convention."

Mr. Henderson pointed out that this had already been given away in the original draft of last August, and that we could not put more in the proposed Sudan note than was contained in the article. *Mr. Henderson* suggested that he should try to get the Egyptians to agree to a period of twenty years for everything; they wanted fifteen years and we were asking a good deal in return for our proposal.

Sir R. Vansittart considered that this would be a very fair compromise.

Mr. Henderson said that he was quite sure that the Egyptians' Sudan note would create very substantial difficulties; he was trying to get rid of that by saying that everything was covered by twenty years.

Lord Passfield suggested that the period might be made fifteen years from the removal of the troops.

Mr. Henderson said that this would not do.

Mr. Shaw thought that there would be great danger if we agreed to fifteen years.

Sir R. Vansittart also thought that fifteen years was far too short to defend.

Mr. Henderson said that he would try the Egyptian delegation with twenty years provided this period covered everything, and articles 9 and 13 stood as drafted; article 16 would then have to be redrafted. With regard to the battalion, he would inform the Egyptian delegation that we stood by our position of last summer, namely, that its return to the Sudan would be sympathetically considered.

Lord Passfield said that if the Egyptian battalion were not to go to Khartum a further difficulty would arise. The wording of the Sudan note of last summer, "return to the Sudan of an Egyptian battalion," implied that it would go to Khartum, where it was before.

The committee decided that they would agree to the Egyptian suggestion with regard to a modification of article 9 provided the Egyptian delegation accepted the period of twenty years, which would cover all the articles of the treaty and prevent any reference to the League of Nations on any point before the termination of that period. With regard to the Sudan, it was decided to stand fast on article 13 as amended (*i.e.*, with the insertion of "without prejudice to Egypt's rights and material interests").

Mr. Henderson retired to convey these decisions to the Egyptian delegation.

On his return *Mr. Henderson* informed the committee that, as he understood the position, there was very little between the two delegations. *Mr. Beckett* had made it quite clear to the Egyptian delegation last night that they could not be allowed to take us to the League of Nations on article 9. The Egyptian delegation was still not quite satisfied that the new British proposal did not debar them from raising the question of the defence of the Canal with the League of Nations at the end of twenty years; they therefore wished words to be inserted which would make it clear that article 9 was not debarred from reconsideration at the end of the twenty years.

With regard to the Sudan, the Egyptian delegation were prepared to drop the remaining demands in the rough note which had been communicated, provided the British delegation agreed to add to the proposed note of last July a sentence to the effect that "there shall be no discrimination in the Sudan between British subjects and Egyptian nationals in matters of commerce and emigration or the possession of property." *Mr. Henderson* suggested that a telegram should be sent to the Governor-General of the Sudan asking him whether he would be prepared to accept this one sentence.

Mr. Shaw saw no harm in the addition of this sentence, since the Governor-General, according to the 1899 Convention, was the sole authority; the addition, therefore, would make no difference.

Sir R. Vansittart said that, while there would be no question of national discrimination, cases should be judged on their merits as they arose.

Mr. Henderson asked whether it would not be possible to insert some words in article 15 providing for reference to the League of Nations at the expiration of twenty years in the event of failure to agree.

Mr. Beckett said that he had had in mind the insertion of some such clause in the protocol of signature. What the Egyptians wanted to make clear was that the words "by agreement" in article 9 would not preclude reconsideration after twenty years.

The following additional paragraph to article 9 was drafted and approved by the committee:—

"It is understood that, at the end of the period of twenty years specified in article 16, the question whether the presence of British forces is no longer necessary, owing to the fact that the Egyptian forces are in a position to ensure by their own resources the liberty and entire security of navigation on the Canal, may, if there is any difference between the high contracting parties, be submitted to the League of Nations."

Mr. Henderson retired to consult the Egyptian delegation, and, when he returned, stated that the Egyptian delegation had agreed to the committee's suggestions. They had, however, still insisted that the British delegation had given them no concession with regard to the Sudan, and strongly urged that the British Committee should consider whether there was anything else which could be given to them.

The committee, however, felt that no further concessions were possible.

Mr. Beckett, who had accompanied *Mr. Henderson* during his last conversation with the Egyptian delegation, said that the latter wished to omit in the preamble any reference to the Declaration of 1922, and that they also wished to insert a clause

stating that this treaty superseded all other treaties contrary to its terms. Mr. Beckett saw no legal objection to this last proposal, but the general feeling of others present was very strongly opposed to its acceptance; either it has no meaning or it is a trap.

The meeting then adjourned.

[J 1267/4/16]

No. 30.

*Record of Proceedings at the Eleventh Meeting with the Egyptian Delegation
on April 16, at 10.30 A.M.*

IT was considered advisable to follow the procedure adopted at the eighth meeting, namely, that the Egyptian and British delegations should be accommodated in separate rooms.

The following members of the Egyptian delegation were present in the Foreign Office :—

Nahas Pasha.
Wacyf Ghali Pasha.
Osman Moharrem Pasha.
Makram Ebeid Bey.
Mustapha Sadek Bey.
Kamel Selim Bey.

The British delegation was as follows :—

Mr. Henderson.
Lord Passfield.
Mr. Shaw.
Lord Thomson.
Sir R. Vansittart.
Sir P. Loraine.
Mr. Dalton.
The High Commissioner for New Zealand
Lieutenant-General Sir K. Wigram.
Major-General Charles.
Air Vice-Marshal Newall.
Major R. G. Casey.
Mr. Clutterbuck.
Mr. Selby.
Mr. Murray.
Mr. Beckett.
Mr. Campbell.
Mr. Scrivener.
Mr. Mack.

Mr. Henderson asked Mr. Beckett to report to the Committee the result of his conversation with the Egyptian delegation at the Hyde Park Hotel last night.

Mr. Beckett reported that the Egyptians had started the discussion by contending that our formula implied the fact that there should be agreement as to when Egypt was in a position to ensure the defence of the Canal by herself and provided for reference to the League of Nations in case of disagreement; they had objected to the British text on the ground that it excluded reference to the League of Nations. Mr. Beckett had pointed out that this contention was incorrect in view of the second sentence of article 16 as already agreed upon, whereas, under the text which the Egyptians proposed for article 9 they could go to the League of Nations in a few weeks if they wished. After this conversation, the Egyptian delegation had deliberated, after which they had informed Mr. Beckett that they would say that, for a period of 10 years the question of fact, namely, whether the Egyptian army was fit to defend the Canal, should be settled by common agreement; afterwards, however, it should be made possible for the question to be raised unilaterally, like any other point in the treaty. They were prepared to put this on paper and to leave a blank space for the number of years. Mr. Beckett had said that he could associate himself with nothing less than the full period of 25 years. They had then endeavoured in

collaboration to discover a new formula, but had made no progress whatever. Mr. Beckett handed in the text, which the Egyptian delegation would probably communicate this morning.

Omit the words "the High Contracting Parties agree that" in article 9, and add the following :—

It is understood that during the period of . . . years from the date of the coming into force of the present treaty, the question whether the Egyptian forces are in a position to ensure by their own resources the security of the Canal shall be only raised and decided by the High Contracting Parties in common agreement.

The British committee, after some discussion, decided that the above proposal for article 9 was unacceptable.

The committee then discussed the question of the Sudan in the light of the telegrams which had been exchanged with the Governor-General yesterday and decided that no further concessions were possible with regard to the Sudan.

Mr. Henderson retired in order to convey the views of the committee to the Egyptian delegation.

Mr. Henderson returned shortly after two o'clock and said that the Egyptian delegation had made a fresh proposal. They had offered to accept the British draft of article 9 if the British delegation would agree to a modification of article 16; they had pointed out that the British article 9 precluded them from raising the question of the defence of the Canal for 25 years, and had said that it would make things easier for them if this period of 25 years could be shortened so as to give them an opening to appeal to the League of Nations for a revision at an earlier date in the event of the two parties failing to agree. The Egyptian delegation had suggested that the period should be 15 years, but that the opening words of article 16 should not be changed. He, Mr. Henderson, had replied that he would lay this suggestion before the committee.

As regards article 13, the Egyptian delegation had invoked Projects A and B in Mahmoud Pasha's Green Book in so far as they related to the return of the Egyptian battalion. Mr. Henderson read out the clauses in question, which are in the following terms :—

Project A.—The Anglo-Egyptian condominium in the Sudan shall continue in the conditions resulting from existing conventional arrangements or from any modifications of the said arrangements which may in the future be made as the result of agreement between the High Contracting Parties.

The rights and powers of the High Contracting Parties under the said conventions shall continue to be exercised on their joint behalf by the Governor-General appointed in accordance therewith.

An Egyptian battalion shall be made available in the Sudan for the protection of the Governor-General, to whose staff an Egyptian officer shall be attached.

Project B.—While reserving liberty to conclude new conventions in future modifying the conventions of 1899, the High Contracting Parties agree that the status of the Sudan shall be that resulting from the said conventions. Accordingly, the Governor-General shall continue to exercise on the joint behalf of the High Contracting Parties the powers conferred upon him by the said conventions, and on the coming into force of the present treaty an Egyptian battalion shall be stationed in the Sudan.

The Egyptian delegation had pressed him very hard to accept one or other of these wordings. The Egyptian delegation were also anxious to put up a note asking for the return of the *status quo ante* 1924, namely, the readmission to the Sudan of Egyptian administrative officials. Mr. Henderson had told them that they must make those proposals in writing, and that he would have to consult his committee and probably the Cabinet. After discussion, the committee decided that they would agree to the Egyptian suggestion with regard to a modification of article 16, provided the Egyptian delegation accepted a period of 20 years, which would cover all the articles of the treaty and prevent any reference to the League of Nations on any point before the termination of that period. With regard to the Sudan, it was decided to stand fast on article 13 as amended (*i.e.*, with the insertion of "without prejudice to Egypt's rights and material interests").

Mr. Henderson retired to convey these decisions to the Egyptian delegation.

On his return *Mr. Henderson* informed the committee that, as he understood the position, there was very little between the two delegations. *Mr. Beckett* had made it quite clear to the Egyptian delegation last night that they could not be allowed to take us to the League of Nations on article 9. The Egyptian delegation was still not quite satisfied that the new British proposal did not debar them from raising the question of the defence of the Canal with the League of Nations at the end of 20 years; they therefore wished words to be inserted which would make it clear that article 9 was not debarred from reconsideration at the end of the 20 years.

With regard to the Sudan, the Egyptian delegation were prepared to drop the remaining demands in the rough note which had been communicated, provided the British delegation agreed to add to the proposed note of last July a sentence to the effect that "there shall be no discrimination in the Sudan between British subjects and Egyptian nationals in matters of commerce and emigration or the possession of property." The committee decided that a telegram should be sent at once to the Governor-General of the Sudan asking him whether he and his Council were prepared to accept this sentence.

The following additional paragraph to article 9 was drafted and approved by the committee:—

It is understood that, at the end of the period of twenty years specified in article 16, the question whether the presence of British forces is no longer necessary owing to the fact that the Egyptian forces are in a position to ensure by their own resources the liberty and entire security of navigation on the Canal may, if there is any difference between the High Contracting Parties, be submitted to the League of Nations.

Mr. Henderson retired to consult the Egyptian delegation, and, when he returned, stated that the Egyptian delegation had agreed to the committee's suggestions. They had, however, still insisted that the British delegation had given them no concession with regard to the Sudan, and strongly urged that the British committee should consider whether there was anything else which could be given to them.

The committee, however, felt that no further concessions were possible.

It was decided that the Egyptian delegation should return at 5 P.M. this afternoon.

[J 1369/4/16]

No. 31.

Record of Proceedings of British Committee at their Meeting on April 16, at 3.15 P.M.

(This paper is supplementary to No. 32.)

DISCUSSION continued on the draft omnibus note (first draft).

Paragraph 8.

General Charles asked that this paragraph should be made to refer also to the passage of British military personnel and stores.

Mr. Henderson pointed out that paragraph 8 referred only to aircraft and aircraft personnel and stores, and that *General Charles's* suggestion was covered by paragraph 4 (a).

General Charles then re-read paragraph 4 (a) and said that it gave all the War Office required. He enquired, however, whether the question of wireless telegraphy should not be mentioned in the note.

Mr. Campbell pointed out that if the British authorities already enjoyed the privilege of using their own wireless telegraphy they would, under the treaty, be able to do so in the future.

General Charles said that there might be interference with Egyptian postal facilities, and objection by the Egyptian authorities on that ground.

Mr. Beckett said that if the British authorities used their own wireless telegraphy now, they were covered by paragraph 6 of the note.

Mr. Shaw said that he was ready to take the risk.

Lord Thomson suggested the insertion of the following sentence in this paragraph: "Visits by representatives of the British Air Force for the purpose of ascertaining the condition of such aerodromes and laying the necessary fuel dumps shall be permitted."

It was agreed that the sentence suggested by *Lord Thomson* should be inserted as the penultimate sentence of the paragraph.

Paragraph 9.

Mr. Campbell expressed the view that the Egyptian delegation would refuse to accept this paragraph as drafted.

Mr. Henderson read the alternative draft presented by the Egyptians (see record of proceedings of tenth meeting with the Egyptian delegation), and enquired whether there was any objection to the Egyptian draft.

Mr. Murray pointed out that the Egyptian draft meant that after five years there would be no British police at all.

Mr. Campbell stated that the Egyptian draft would also lead to claims from other Powers for police of their own when the capitulatory negotiations took place.

Mr. Henderson pointed out that his proposals of last July contemplated a time when there would be no British police.

Lord Passfield said that the removal of the British police would raise great difficulties and that it was in Egypt's own interest that they should be retained, since otherwise the capitulatory Powers would be sticky when it came to negotiate. He thought, therefore, that it would be better to adhere to the wording proposed in the British note.

Paragraph 10.

(For the Egyptian delegation's proposal, see record of proceedings at tenth meeting.)

Lord Passfield pointed out that here again Egypt would be unable to get France and Italy and other Powers to agree to the abolition of the Capitulations if the advisers were abolished.

Mr. Campbell pointed out that paragraph 10 as drafted marks a considerable advance from the Egyptian point of view on the proposals of last July, which provided for the maintenance of the adviser's posts during the period necessary for the completion of the reform of the capitulatory system.

Paragraph 11.

Mr. Henderson pointed out that the Egyptian delegation had refused to agree to the insertion of any reference to the engagement of foreign experts, but in view of the Cabinet decision of yesterday we should have to insist on this clause.

Paragraph 12.

No observations were offered.

Paragraph 13.

In view of the exchange of telegrams which had taken place with the Governor-General of the Sudan, it was decided that the first sentence should be omitted, and that the latter part of the paragraph should be amended to read as follows: "The two Governments are agreed that there shall be no discrimination in the Sudan between British subjects and Egyptian nationals in matters of commerce and immigration or the possession of property. It has further been agreed that if the treaty is worked in the same friendly spirit in which it has been negotiated His Majesty's Government in the United Kingdom will be prepared to examine sympathetically a proposal for the return to the Sudan of an Egyptian battalion simultaneously with the withdrawal of the British forces from Cairo."

Paragraph 14.

No observations were offered. It was felt that this paragraph was a good example of the joint effective action in the Sudan which the Egyptian delegation desired.

Paragraph 15.

Lord Passfield explained the course of the discussion with the Egyptian delegation at the sixth and seventh meetings, and the committee decided that it would be best to adopt the wording suggested by the Egyptians. The paragraph was accordingly redrafted as follows: "With regard to article 12 of the treaty, the Egyptian Government, anxious to mark the satisfaction that the appointment of a British representative as first Ambassador in Egypt affords them, intend that his precedence in relation to the representatives of other Powers shall extend to his successors."

Lord Thomson enquired whether the committee would agree to an addition to the end of paragraph 6 to include a convalescent camp on the Mediterranean coast.

Mr. Campbell pointed out that paragraph 6 only covered privileges and immunities.

Mr. Beckett enquired whether *Lord Thomson's* suggestion was that Egypt should build a convalescent camp.

Lord Thomson said that the Egyptians were getting a very good convalescent hospital from us.

Mr. Henderson pointed out that his note of last year said that equivalent accommodation would be provided; this would cover a convalescent camp. If the Air Force gave up a hospital, it was for Egypt to provide the equivalent.

Mr. Beckett said that paragraph 5 was the relevant paragraph for the addition suggested by *Lord Thomson*.

Lord Thomson pointed out that article 9, as redrafted during the present negotiations, said nothing about equivalent accommodation.

The committee agreed that the following sentence should be added to paragraph 5: "They will also provide a convalescent camp on the Mediterranean coast."

The committee also decided that the wording of article 9 of the treaty should be: "to station in the neighbourhood of Ismailia and in the area to the west of Ismailia as far as Mahsama railway station." The words in italics should be substituted for "and in an area north of Suez." It was also decided to omit the reference to facilities for communication, since this was provided for in the omnibus note.

The omnibus note, as revised and communicated to the Egyptian delegation on their arrival at 5 P.M., is contained in the record of proceedings at the twelfth meeting with the Egyptian delegation in No. 32. The record, No. 32, in conjunction with which the following notes should be read, contains the decisions of the committee and the views of the Egyptian delegation thereon.

With regard to the Egyptian rough note on the Sudan, *Lord Passfield* pointed out that, even if there were anything in this note which could be put in other words, it would be impossible for His Majesty's Government to defend in Parliament a reversion to the pre-1924 position.

Sir Robert Vansittart suggested that *Mr. Henderson* should inform the Egyptians that the committee thought that their proposal was so much out of the question that it would not be worth while submitting it to the Cabinet.

Mr. Henderson said that he would inform the Egyptian delegation that he and his colleagues were unanimous on this point.

Mr. Henderson conveyed this decision to the Egyptians and returned with the second Egyptian rough note.

Mr. Shaw enquired whether there was anything in the 1899 Convention which we wanted to renounce.

Sir Robert Vansittart said No. What the Egyptians wanted was the return of the Egyptian officials, which could not be tolerated.

Mr. Henderson thought that in a court of law the Egyptians would probably be held to be entitled to more in the Sudan than they had at present. We had turned out the Egyptian officials; we were now beginning a new alliance, and it was natural that the Egyptians should ask what we were going to do for them under the 1899 Convention, which Egypt had been compelled to accept; the Egyptians now proposed a talk in twelve months' time; we were in the unfortunate position of only being able to telegraph this suggestion to the Governor-General, unless we turned it down absolutely.

Sir Robert Vansittart said that it was almost certain that *Sir J. Maffey* would answer in the negative.

Mr. Shaw saw no harm in undertaking to discuss the Sudan in twelve months' time.

Lord Thomson was inclined to agree with *Mr. Shaw*. He did not see why we should not talk about the Sudan in the course of a year; it would not disturb administration in the Sudan.

Sir P. Loraine pointed out that *Sir J. Maffey* had said that it would disturb administration.

Mr. Henderson suggested that our refusal might be softened by a quite general provision in the treaty, not dealing with one point only, to the effect that if there were any disagreement on points of application of the treaty, the high contracting parties could meet within a year to discuss them. He asked the Drafting Committee to find a wording for article 15 which would help to soften the fall for the Egyptian delegation and provide for conversation instead of going to the League of Nations.

Lord Passfield said that if the Egyptian Government had some *bonâ fide* grievance they should be given an opportunity to discuss it.

The committee decided to suggest to the Egyptian delegation that the following new article should be added at the end of the treaty in order to meet the Egyptian suggestion of a conversation within a year: "The high contracting parties agree, if either of them should so request, to enter into friendly discussions within one year from the coming into force of the treaty with regard to any question arising out of the application of the treaty with respect to which any difficulty may have arisen."

The committee felt that this proposal went a long way to meet the Egyptians, and that the Egyptian reaction to it would provide a test of their real intentions. The committee decided that it would be impossible to insert any clause in the Sudan article specifically providing for discussions within a year.

The Egyptian delegation's observations on the omnibus note are contained in No. 32. The following is a résumé of the discussions which led to the decisions recorded in that paper:—

Sir Robert Vansittart said that the Egyptian suggestion with regard to advisers would complicate their task very much in their negotiations with the capitulatory Powers.

Mr. Campbell said that it would make their task almost impossible. The disappearance of the judicial adviser would cause grave misgiving among the British and foreign residents in Egypt; moreover, the whole of the Capitulations note in last year's proposals to some extent implied the continuance of the advisers for a limited term of years. An attempt had been made to meet the Egyptian view by inserting in paragraph 11 of the note, which had just been handed to them: "the occupants of these posts hold their appointments as Egyptian officials from the Egyptian Government."

Sir P. Loraine said that with regard to the last point mentioned by *Mr. Campbell*, he had, before his departure from Cairo, recommended a move on these lines officially; he thought the retention of the advisers was essential for at least five years.

Mr. Henderson pointed out that the Egyptian delegation had turned down our suggested paragraph 11.

Mr. Campbell enquired whether, if a reference to the advisers were omitted, *Nahas Pasha* would give a personal assurance that he would retain them for a certain period.

Mr. Henderson said that he thought that if the advisers were kept on it did not matter how the undertaking was given, but he thought that the Egyptians should give an undertaking to re-engage them.

Mr. Campbell pointed out that there was a distinction between "re-engagement" and the recreation of posts; great importance was attached during the negotiations of last summer to the retention of these posts, and the British and foreign communities in Egypt attached immense importance to the question; they had communicated to the High Commissioner memoranda on the subject of the retention of the judicial adviser.

Mr. Murray pointed out that the Milner report contemplated the indefinite retention of the advisers, and we were now suggesting that the posts should expire in five years.

Mr. Campbell said that the existing contracts expired in about two and a half years.

Mr. Henderson suggested that we should agree to the Egyptian undertaking to retain the advisers until the end of the present periods of engagement, and that he should warn the Egyptian delegation that the advisers would be expected to remain to tide over the period of reform.

Mr. Henderson enquired what the committee felt with regard to the police.

Mr. Shaw thought it was best to abolish the police gradually and not altogether in five years' time.

Mr. Henderson said that if the Egyptian delegation had proposed to abolish them all at once, we would have insisted on gradual extinction.

Mr. Murray pointed out that the proposal of last year only provided for "a certain European element."

Sir Robert Vansittart said that, as he had pointed out before, the Egyptian delegation's insistence of their view with regard to the police and the advisers would make the Capitulations agreement more difficult.

Mr. Henderson said that the Egyptian delegation had refused to accept that argument. He thought it was very reasonable that the police should be removed gradually.

Mr. Beckett pointed out that the British text allowed for their gradual removal.

Mr. Henderson enquired why, if that was the case, we could not accept the Egyptian delegation's wording.

Mr. Beckett said that if we accepted the Egyptian text we would be saddled with the responsibility for the dismissal of the police; the proposed British text would stand criticism better in Parliament.

Mr. Henderson said that he was ready to stand the latter, but that he thought the Egyptian wording was not bad.

Lord Thomson thought that the Egyptian suggestion was not unacceptable, but that it made Egypt's position very difficult *vis-à-vis* foreign Powers.

Mr. Henderson suggested that we should agree to the Egyptian suggestion with regard to the police if they agreed to our view with regard to advisers.

This suggestion was adopted.

Mr. Henderson enquired what were the views of the committee regarding the proposed Egyptian note on the Capitulations.

Mr. Murray said that it anticipated the reform of the Capitulations and omitted a considerable amount of the British note of last July. Our undertaking to Egypt was contained in the article of the treaty; the British draft note of 1929 contained

our views on the lines on which the reform of capitulatory régime might proceed, and on which we would be prepared to support the Egyptian Government to conclude arrangements with the capitulatory Powers.

Mr. Henderson said that *Mr. Murray* and *Mr. Beckett* would have to accompany him and discuss the Capitulations question with the Egyptian delegation.

The result of the subsequent discussions with the Egyptian delegation is given below.

[J 1297/4/16]

No. 32.

Record of Proceedings at the Twelfth Meeting with the Egyptian Delegation on April 16, at 5 P.M.

THE following were present:—

Egyptian Delegation.

Nahas Pasha.
Wacyf Ghali Pasha.
Osman Moharrem Pasha.
Makram Ebeid Bey.
Mustapha Sadek Bey.
Kamel Selim Bey.

British Delegation.

Mr. Henderson.
Lord Passfield.
Mr. Shaw.
Sir R. Vansittart.
Sir P. Loraine.
Mr. Dalton.
The High Commissioner for New Zealand.
Lieutenant-General Sir K. Wigram.
Major-General Charles.
Air Vice-Marshal Newall.
Brigadier Temperley.
Major R. G. Casey.
Mr. Clutterbuck.
Mr. Selby.
Mr. Murray.
Mr. Beckett.
Mr. Campbell.
Mr. Scrivener.
Mr. Mack.

Before the Egyptian delegation arrived the British Committee considered a draft note to be annexed to the treaty which had been prepared in the Department. The note which it was finally decided to communicate to the Egyptian delegation was as follows:—

Draft Egyptian Note.

Sir,

I wish to place on record the understandings which have been reached between us in regard to various important matters arising out of or in connexion with the Treaty which we have signed to-day.

In regard to matters of a military character, we are agreed as follows:—

(1) British personnel shall be withdrawn from the Egyptian Army and the functions of the Inspector-General and his staff shall terminate.

(2) The Egyptian Government, desiring to perfect the training of the Egyptian Army, and intending, as a natural consequence of the alliance which has been established, that such foreign instructors as they may deem necessary shall be chosen from amongst British subjects only, will avail themselves of the advice of a British military mission. His Majesty's Government in the United Kingdom will furnish the military mission which the Egyptian Government desire, and will also undertake to receive, and provide training in the United Kingdom for, any personnel of the Egyptian forces which the Egyptian Government may desire to send for the purpose of being trained. In the circumstances created by this Treaty, the Egyptian Government will naturally not desire to send any personnel of their armed forces to be trained abroad elsewhere than in the United Kingdom.

(3) In the interests of the alliance, and in view of the possible necessity of active co-operation between the British and Egyptian forces, the armament and equipment of the Egyptian forces shall not differ in type from those of the British forces. His Majesty's Government in the United Kingdom undertake to use their good offices to facilitate the supply of such armament and equipment from the United Kingdom whenever the Egyptian Government so desire.

(4) With reference to Article 9 of the Treaty, it is understood that, if, after a survey of the ground in the neighbourhood of Ismailia, the two Governments are not agreed that there is a sufficient area of hard desert, west of the Canal and in the immediate vicinity of Ismailia or westwards between Ismailia and Mahsana railway station, to provide adequate accommodation and training grounds for 8,000 men of the land forces, the Egyptian Government will provide at some place to be agreed upon situated south of Ismailia and west of the Canal a further area of land adequate and suitable for the accommodation and training of 2,500 men of the land forces.

(5) The Egyptian Government will accord, and provide where necessary, all reasonable means of communication and access to and from the localities where the British troops are situated, and will also accord facilities at Port Said and Suez for the landing and storage of British military material and supplies.

(6) The Egyptian Government will provide for the British troops—8,000 of the land forces and 3,000 of the Air Force—free of cost to the Government of the United Kingdom, in the localities agreed upon in accordance with Article 9 of the Treaty and paragraph (4) above, the lands and permanent accommodation, including an emergency water supply, suitable according to modern generally recognised standards and satisfactory to His Majesty's Government. In addition to providing the accommodation above mentioned, the Egyptian Government will take steps, having regard to the character of the localities where British troops will be stationed, to furnish reasonable amenities by planting tree gardens, &c., for the troops. They will also provide a convalescent camp on the Mediterranean coast.

When such accommodation is fully completed, the British forces then present in other parts of Egypt will withdraw therefrom and will hand over to the Egyptian Government all land and buildings so vacated, other than those in private ownership.

(7) Subject to any modifications which the two Governments may agree to introduce in the future, the immunities and privileges in jurisdictional and fiscal matters, including freedom from taxation, at present enjoyed by the British forces in Egypt will continue to be extended to all the armed forces of His Britannic Majesty in that country. The Egyptian Government will take the necessary steps to ensure that the altered conditions after the transfer of the British troops to the localities mentioned above will not render their position as regards immunities and privileges in any way less favourable than that which they at present enjoy in Egypt.

(8) Unless the Governments agree to the contrary, the Egyptian Government will prohibit the passage of aircraft over the territories situated on either side of the Suez Canal and within 20 kilometres of it. This prohibition will not, however, apply to the forces of the two Governments or to services maintained by genuinely British or Egyptian organisations, operating under the authority of the Egyptian Government.

(9) The Egyptian Government will give all necessary facilities to British aircraft, personnel and stores on passage to and from the aerodromes placed at the disposal of the British forces in accordance with Article 9 of the Treaty, and for the purpose of such passage will secure the maintenance and availability at all times of such aerodromes and landing-grounds in Egyptian territory as are required. Visits by representatives of the British Air Force for the purpose of ascertaining the condition of such aerodromes and laying the necessary fuel dumps shall be permitted. His Majesty's Government will give reciprocal facilities in their aerodromes in the Canal zone to Egyptian military aircraft, personnel and stores on passage to and from Egyptian aerodromes.

In regard to other matters:—

(10) The Egyptian Government, though they intend to abolish the European Bureau of the Public Security Department, are resolved, nevertheless, to retain, for at least five years from the coming into force of the Treaty, a certain European element in their city police, which will remain for the same period under the command of British officers.

(11) The Egyptian Government are anxious to have expert assistance for the extensive programme of internal reforms which they contemplate. They intend to

maintain, for at least five years from the date of the coming into force of the treaty, the employment of British subjects in the posts of Financial Adviser to the Egyptian Government and Judicial Adviser to the Ministry of Justice. The occupants of these posts hold their appointments as Egyptian officials from the Egyptian Government.

(12) The Egyptian Government, in view of the treaty of friendship and alliance signed to-day, will naturally, when engaging the services of foreign experts, as a rule give preference to British subjects possessing the necessary qualifications.

(13) The two Governments agree that the question of the indebtedness of the Sudan to Egypt shall now be examined with a view to settlement on fair and equitable lines and that for this purpose a representative of the Treasury of the United Kingdom and of the Egyptian Ministry of Finance should discuss the question as soon as the treaty comes into force.

(14) The two Governments are agreed that there shall be no discrimination in the Sudan between British subjects and Egyptian nationals in matters of commerce and immigration or the possession of property. It has further been agreed that, if the treaty is worked in the same friendly spirit in which it has been negotiated, His Majesty's Government in the United Kingdom will be prepared to examine sympathetically a proposal for the return to the Sudan of an Egyptian battalion simultaneously with the withdrawal of the British forces from Cairo.

(15) As regards the method by which international conventions are to be made applicable to the Sudan the two Governments are agreed as follows:—

The Conventions which it will be desired to apply to the Sudan will naturally be conventions of a technical or humanitarian character.

In cases where such a convention is signed on behalf of both Egypt and the United Kingdom, and it is desired that the convention should be applied to the Sudan, the British and Egyptian delegates will at a convenient moment make a joint declaration, to be duly placed on record, to the effect that their signatures on behalf of Egypt and the United Kingdom respectively are intended, taken together, to cover the Sudan, and (in cases where the convention requires ratification) that, when the ratifications of both the King of Egypt and His Britannic Majesty have been deposited, the convention will become applicable to the Sudan in accordance with its terms. If no such declaration is made the convention will not become applicable to the Sudan, unless by the method of accession, to which reference is made later.

In cases where such a declaration has been made, no special mention would be made of the Sudan in the instruments of ratification.

In some cases, where the convention provides for subsequent accession, and it may be convenient that the convention should be applied to the Sudan by this method, accession would be effected by a joint instrument signed on behalf of Egypt and the United Kingdom respectively by two persons duly appointed for the purpose. The method of depositing the instrument of accession would be the subject of agreement in each case between the two Governments. In such cases no question of ratification arises.

At international conferences where such conventions are negotiated the Egyptian and British delegates would naturally keep in touch with a view to any action which they may agree to be desirable in the interests of the Sudan.

(16) With regard to Article 12 of the Treaty, the Egyptian Government, anxious to mark the satisfaction which the appointment of a British representative as the first Ambassador in Egypt affords them, intend that his precedence in relation to the representatives of other Powers shall extend to his successors.

When the Egyptian delegation arrived they were accommodated in the Ambassadors' waiting room. They asked to see Mr. Henderson alone, and communicated to him the following draft with regard to the question of the Sudan:—

Rough Note.

By application of the 1899 conventions, as provided for under article 13 of the treaty, the high contracting parties agree that, once the treaty is ratified, they will begin by restoring the *de facto* position before 1924. The said conventions necessarily entail that there shall be no restrictions upon Egyptians as to emigration, property and commerce.

The British committee decided unanimously that the Egyptian proposals were quite unacceptable, since it would be impossible to admit a reversal to the position in the Sudan previous to 1924.

Mr. Henderson communicated this decision to the Egyptian delegation.

When *Mr. Henderson* returned, he said that the Egyptian delegation had made an appeal to British humanitarian instincts and had suggested that a sentence should be added to article 13, as already agreed, to the following effect:—

Rough Note.

In view of the present difficulty of obtaining the necessary data for applying and carrying into effect the provisions of the 1899 Conventions, the high contracting parties agree to enter into pourparlers in the course of the year following the ratification of the treaty with a view to agreeing upon such application. Meanwhile, there shall be no restrictions upon the subjects of either of the high contracting parties as to property, commerce and emigration.

The committee decided to suggest to the Egyptian delegation that the following new article should be added at the end of the treaty in order to meet the Egyptian suggestion of conversations within a year:—

The high contracting parties agree, if either of them should so request, to enter into friendly discussions within one year from the coming into force of the treaty with regard to any question arising out of the application of the present treaty with respect to which any difficulty may have arisen.

The committee felt that this proposal went a long way to meet the Egyptians, but they decided that it would be impossible to insert any clause in the Sudan article specifically providing for discussions within a year.

Mr. Henderson communicated this proposal to the Egyptian delegation.

When *Mr. Henderson* returned, he said that the Egyptian delegation were considering the British proposal. They had, however, raised the following points in regard to the note:—

Firstly, with regard to paragraph 6, they had raised the question of the ownership of the properties which the British troops would vacate.

Secondly, with regard to the numbers of the British troops mentioned in paragraph 6, they had pointed out that there was already accommodation for 2,000 men near Ismailia, which His Majesty's Government were going to keep. It would therefore be necessary to insert a few words to cover this point.

Thirdly, the note contained no reference to the Capitulations. *Mr. Henderson* had told the Egyptian delegation that he thought they were prepared to leave out the proposed note of last summer on the subject of the Capitulations, but they replied that they had promised to hand in a note on the subject, and there and then they had handed to him the following draft:—

Capitulations.

Great Britain recognises that the conditions in which the Capitulations are at present applied as regards the power of the Egyptian Government to legislate for or to impose taxation on foreigners are no longer consistent with modern conditions.

Great Britain is prepared to agree that in future any assent which is necessary before Egyptian legislation, including fiscal legislation, is applied to foreigners shall be given by the General Assembly of the Mixed Tribunals, except in the case of legislation relating to the constitution or jurisdiction of the Mixed Tribunals themselves, which should not come into force until it has been approved by the Powers. The competence of the General Assembly of the Mixed Tribunals should consist in satisfying itself that the legislation in question is not inconsistent with the principles generally adopted in modern legislation, which is applicable to foreigners, and, with particular relation to legislation of a fiscal character, that it does not *unequally* discriminate against foreigners, including foreign companies.

An extension of the criminal jurisdiction of the Mixed Tribunals will necessitate the preparation and promulgation of a new Code of Criminal Procedure. It is understood that this new code should not diverge from the principles generally adopted in modern legislation which is applicable to foreigners.

It may be difficult for some Powers to agree to the transfer to the Mixed Tribunals of all suits relating to the "Statut Personnel" of their nationals. Transfer in the case of these questions would be facultative. Jurisdiction in such

matters should remain with the consular authorities unless an agreement is made between the Egyptian Government and the foreign Government concerned for its transfer to the Mixed Tribunals. The British Government agrees that the Mixed Tribunals should exercise jurisdiction in these matters in cases where British subjects are concerned.

Fourthly, with regard to paragraph 10, the Egyptian delegation did not like to agree to a rigid arrangement that they would keep on the police for five years; they wanted the British delegation to agree to a gradual transfer by annual reductions, as proposed in their draft communicated at the tenth meeting (Print: "Egypt and Sudan," April 15, 1930, Section 1).

Fifthly, the Egyptian delegation objected to the wording of paragraph 11 regarding the retention of the Financial and Judicial Advisers, and had handed in an alternative draft (see section referred to at the end of the previous paragraph).

The committee then discussed these points.

With regard to 5, they felt that the disappearance of the Advisers would cause great misgivings among British and foreign residents in Egypt and would complicate considerably the task of the Egyptian Government in their negotiations with the capitulatory Powers. The committee finally decided, however, to agree to alter the wording to the extent of admitting that the Advisers should be retained only until the termination of their present engagements.

With regard to the police, the committee decided to agree to the Egyptian suggestion of gradual abolition provided the Egyptians accepted the British view with regard to the Advisers.

With regard to the question of Capitulations, it was decided that *Mr. Beckett* and *Mr. Murray* should accompany the Secretary of State in order to assist him in his discussions with the Egyptian delegation on this point.

With regard to paragraph 6 of the note, the committee decided to agree to the insertion of the words "less the number for which accommodation already exists in these localities" in the third line of paragraph 6, immediately after the words "3,000 of the Air Force."

Mr. Henderson, *Mr. Murray* and *Mr. Beckett* then communicated these decisions to the Egyptian delegation in the Ambassadors' waiting room. *Lord Passfield*, *Mr. Shaw* and *Lord Thomson* then left.

Mr. Henderson returned and said that he had accepted the Egyptian formula regarding the police, that the Egyptian delegation had agreed to the substitution in article 11 of the words "for the remaining periods of the existing contracts" instead of "for at least five years from the date of the coming into force of the treaty," and that he had agreed to the Egyptian draft as regards the police which should be substituted for the British article 10. The Egyptian delegation had undertaken to come to a decision some time in the course of the evening.

(Proceedings then adjourned.)

[J 1260/4/16]

No. 33.

Sir J. Maffey to Mr. A. Henderson.—(Received April 16.)

(Unnumbered.)

(Telegraphic.)

Khartum, April 15, 1930.

YOUR unnumbered telegrams of the 15th April.

My council has met and discussed your two telegrams of to-day. Our unanimous opinion, which we earnestly press His Majesty's Government to take into account, is that proposal regarding administrative posts would be fatal to permanent interests of Sudan.

Secondly. If provisions are to be carried out in spirit in which they obviously must in fairness be interpreted, and in which the world will expect us to interpret them, effect will eventually be much the same as that of accepting proposals of Nahas which Cabinet has categorically refused. The very indefiniteness of phrases would make danger greater in view of their preamble.

Thirdly. The position of Governor-General would be an impossible one, for he could not year after year in practice take refuge in the qualifying phrases with which promises are hedged about.

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Fourthly. It is our considered opinion that result would be progressive undermining of stability of our position in Sudan in spite of pledges given by His Majesty's Government. The very minimum of terms of note would be highly detrimental to our prestige here.

Fifthly. Our difficulty in making any helpful alternative suggestion is that we feel Egypt will accept nothing which is not susceptible to an interpretation which is vague enough to open up an indefinitely wide prospect.

Sixthly. The prospect which gives rise to our greatest difficulties is "administrative". If it were a question of "technical and clerical" posts we should feel little objection provided that there was no doubt that the words "resulting from" in article 13 mean "which has, in fact, resulted from."

(Repeated to Cairo, No. 69.)

[J 1264/4/16]

No. 34.

Sir J. Maffey to Mr. A. Henderson.—(Received April 16.)

(Unnumbered.)

(Telegraphic.)

Khartum, April 16, 1930.

ON re reading your telegrams of yesterday, I do not find it clear whether actual text of your alternative note was approved by Cabinet for presentation as it stood to Egyptian delegation, or whether Cabinet merely approved an alternative note in principle, but wished me and my council first consulted regarding its terms. The point is of the greatest importance to us, since there appears to us to be an obvious discrepancy between proposals as set forth in your alternative note and the pledges conveyed to us on behalf of His Majesty's Government in reply to recent resolutions of my council (Foreign Office despatch No. 157 of the 12th February to High Commissioner).

May I respectfully ask that, in the circumstances, this exchange of telegrams be laid before the Cabinet?

(Repeated to Cairo, No. 70.)

[J 1282/4/16]

No. 35.

Sir J. Maffey to Mr. A. Henderson.—(Received April 16.)

(Unnumbered.)

(Telegraphic.)

Khartum, April 16, 1930.

YOUR unnumbered telegram of the 16th April. My council and I beg to thank you.

2. We feel no objection to proposed clause about the absence of discrimination.

3. Nor do we raise any objection to addition in article 13 of phrase "without prejudice," &c., in view of net result as defined in your telegram under reference.

4. As regards this last point, we are assuming that you regard present *de facto* position in the Sudan as safeguarded against resort by Egypt to any outside body as to possible interpretation of words "resulting from" in article 13.

(Repeated to Cairo, No. 71.)

[J 1264/4/16]

No. 36.

Mr. A. Henderson to Sir J. Maffey (Khartum).

(Unnumbered.)

(Telegraphic.)

Foreign Office, April 16, 1930.

MY colleagues and I fully understand your position and appreciate the force of the considerations which you have adduced in your telegrams. I should explain that text of note which I telegraphed to you yesterday was approved by the Cabinet for communication to you and your council, and, of course, had not been shown to the Egyptian delegation.

In the light of your reply, I have taken my stand on that sentence in the note which relates to the absence of discrimination in the Sudan between British subjects and Egyptian nationals in matters of commerce and emigration or the possession of property.

If this assurance is given in the form of a note and the addition made to article 13 of the words which I communicated to you yesterday, there is every prospect of concluding the treaty. If conclusion were reached on the lines contemplated, net result would be impossibility of any further modification of position in the Sudan during validity of the treaty except by mutual agreement.

I hope to receive your reply this evening.

[J 1298/4/16]

No. 37.

Record of Proceedings at the Thirteenth Meeting with the Egyptian Delegation held at the Egyptian Legation at Midnight, April 16-17, 1930.

THE following were present:—

Egyptian Delegation.

Nahas Pasha.
Wacyf Ghali Pasha.
Osman Moharrem Pasha.
Makram Ebeid Bey.
Mustapha Sadek Bey.
Kamel Selim Bey.

British Delegation.

Mr. Henderson.
Lord Passfield.
Lord Thomson.
Sir R. Vansittart.
Sir P. Loraine.
Mr. Dalton.
Mr. Selby.
Mr. Murray.
Mr. Beckett.
Mr. Campbell.
Mr. Scrivener.
Mr. Mack.

Before this meeting took place Mr. Henderson had had a long conversation with Nahas Pasha, at which Sir P. Loraine was present.

When the delegations assembled at midnight, *Mr. Henderson* explained that Nahas Pasha had refused to move from the position which he had taken up with regard to the Sudan. The British committee could not move from their position either; he did not know whether anything more could be said at the present stage to avert the calamity involved in a break-off of negotiations.

Nahas Pasha pointed out that they had now arrived at the final stage when both sides had made great efforts to reach agreement, and the Egyptian delegation had made concessions on their side which his party had never yet envisaged in order to meet Mr. Henderson and His Majesty's Government; the Egyptian delegation had admitted that British troops should be stationed in the localities on the Suez Canal which His Majesty's Government wished; they had done their utmost to reach agreement and success had almost been attained. He was not asking Mr. Henderson to depart from his proposals of last summer with regard to the Sudan, but only to apply those proposals. Although according to the proposals the Egyptian Government had the right to ask for a discussion on the Sudan the very day after signature, the Egyptian delegation were prepared to agree that conversations should take place after a year with regard to the application of the provisions of the treaty in the Sudan. The Sudan was a part of Egypt which every Egyptian regarded as a vital part—all Egyptian statesmen, including Sarwat Pasha, had taken up this attitude—and yet he and his colleagues, who represented the so-called extremists or nationalists of Egypt, having found an unequalled opportunity of negotiating with a friendly British Government with the whole of Egypt behind them, were refused this reasonable offer; once the treaty was accepted, a real friendship between the two countries would be created; the first questions which even the moderate in Egypt would ask on their return would be: "What does article 13 mean? Were they merely words or did they mean anything? What about officials?" If the Egyptian offer had been accepted by the British delegation he and his colleagues could have replied that, as it had been found impossible to reach agreement on all points, there would be an opportunity for conversations in a year's time and nothing would be lost; if the Egyptian proposal were accepted, the treaty would pass in the meantime

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in the best of atmospheres, since the first impression was of the greatest importance; all he asked was that provision should be made for conversations within a year, and he had put this request, bearing in mind Mr. Henderson's parliamentary difficulties; Mr. Henderson had suggested the addition of a general article; the answer which would be made to that in Egypt would be that, of course, both sides had the right to talk and that the words meant nothing; if they were included in the Sudan article all would be well; the Egyptian delegation could say that everything would be talked over in a friendly manner. Nahas Pasha said that he was not arguing or negotiating now; he had finished with discussions; the position in both countries must be faced; the Egyptian delegation knew that His Majesty's Government could not do the impossible, and thought that they had made Mr. Henderson's task easy by their suggestion; if they agreed to the British suggestion the treaty would be most unpopular; if the Egyptian delegation said that the proposed general article covered the Sudan, then the answer would be: "Why was it not so stated?" The Egyptian delegation included in their number, in the person of Wacyf Ghali Pasha, a man who had devoted his life to the Sudan question. As both sides could not agree, why should they not be allowed to tell their people that the friendly Labour Government was ready to have another talk on the Sudan? this was all that he asked; he was not asking for any appreciable advantage, but was really making a concession in leaving the question over for a year: this was the honest way of putting the question. Apart from this question, there only remained points of detail outstanding which could be settled in an hour.

Mr. Henderson: I would like to reply. Much that his Excellency has said regarding his difficulties fits very aptly the position from the British point of view. If it is quite or almost impossible for him to move from his position, it is equally impossible for us. We, as the British negotiators, set out last summer to settle the great problem of the future relations of Egypt and England. This was a very big problem which, if we had wanted to conserve our own personal feelings, previous attempts to settle would have made us fight shy of as not being a question for a minority Government to tackle. But we did set about it, and we decided to make one bold stroke to create an atmosphere. I believe that our action was appreciated everywhere in Egypt. We made that bold stroke. The proposals were put before Egypt, and it is not my fault that a copy did not find its way to every household in Egypt. Mr. Dalton and I made it plain to Makram Ebeid last summer that we would not give a treaty to Mahmoud Pasha, but that we would have the proposals submitted to the Egyptian people, and that constitutional government would be restored. I have been through the days when minorities were very unpopular and the Wafd were very unpopular with a very large section of people in this country, but yet we said that, whatever Government was appointed by the Egyptian people, we would accept it. Parliamentary elections were held and the Wafd was returned with a very large majority. I did my very best through His Majesty's High Commissioner to ascertain from Nahas Pasha what the Wafd had in mind with regard to my proposals. With very honest intentions, Nahas Pasha said that he would prefer to keep silent until he could come here and negotiate. I welcomed his offer to come and negotiate, but the negotiations were to be on the proposals which had been published in this country and submitted to the Egyptian people. If there were difficulties involved in the problem of future relations between Egypt and Great Britain, there were also other big problems involved in the proposals, and something should have been done regarding them; I should have been apprised of them in time in order to enable me to consult my own people here and a very important official who has already been mentioned several times in our discussions—the Governor-General of the Sudan. The responsibility for my not having this opportunity rests elsewhere; it does not rest on me. His Excellency had referred to the position when Sarwat was negotiating. My answer to that is that when Sarwat Pasha found that he could only solve one problem at a time, namely, the relations between Egypt and Great Britain, which had remained unsettled for nearly fifty years, he very wisely decided to make no reference to the Sudan. There he showed his statesmanship, and he was ready to allow the goodwill which the alliance would beget and the experience which would be thereby obtained to work, and if he could not get all he wanted, he was ready to trust to the future. If Sarwat Pasha is quoted by the Egyptian delegation, I am ready to meet that position. His Excellency had said that the negotiations were finished and that we are not negotiating. We accept that position. We did our best to meet you on this point but we cannot do it. What remains to be done? Was it not better to solve the future relations between the two

countries and trust both to work out the future in a friendly way? His Excellency says that he only wants an opportunity to talk. I put this to the committee this afternoon, and I will recall to your mind the words I offered; they were: "The high contracting parties agree, if either of them should so request, to enter into friendly discussions within one year from the coming into force of the treaty with regard to any question arising out of the application of the present treaty with respect to which any difficulty may have arisen." I would emphasise the special provision "within one year." If all that was wanted was an opportunity to talk, the opportunity to do so is there clearly and unmistakably provided for. And though I did not put this point to the Cabinet, you will note that we said we would not exclude any question. When we are so near a settlement of one of the most important questions which has exercised the minds of politicians in both countries for the last fifty years, why do you refuse this offer? You risk compromising the settlement of a very difficult question. If this opportunity goes, is there anyone who would dare stand up and say that a better opportunity will come? He would be a bold man who did so, because he could not prove his words. If we had locked the door you would be justified in your objections; but our proposals do not lock the door. We have all along tried our best to reach a settlement, and I would like you even now to accept this clause in order to permit me to make a statement in the House of Commons to-morrow. I will now come back to where I began. It is difficult for you to go back to your people with what we have agreed. I realise that. But there are many points which it will be difficult for me to defend, but I will defend them, and you will have the satisfaction of having solved relations between the two countries even if you have not got all you want. Bear in mind the friendly spirit in which the negotiations have been conducted and the friendly spirit in which the treaty would be worked once it was signed, and let us keep that spirit to alleviate your burdens, of which you have spoken so much. That is my position, and I am sure that my colleagues will agree that we must stand on the offer we have made.

(Although Mr. Henderson's remarks are given in *oratio recta* they do not purport to include all Mr. Henderson said, as no shorthand notes were taken.)

Mr. Henderson enquired whether Nahas Pasha would like to take the discussion any further to-night.

Nahas Pasha said that he wished to make one point. When he had used the phrase that we were not negotiating to-night, he did not mean that negotiations were at an end; the translation of his words seemed to have been faulty; what he meant was that we were not negotiating and bargaining but describing the position with exact truth and talking as friends.

Mr. Henderson said that he quite understood Nahas Pasha's meaning.

Nahas Pasha said that he thought the position from the point of view of the Egyptian delegation was very grave, and he considered that it would be better to talk some other time. The Egyptian delegation stood on the position that the general article did not satisfy them and so they suggested another talk. Nahas Pasha added that he was very tired.

Mr. Henderson said that he quite realised this, and it was quite proper that we should have another talk. He pointed out that the House of Commons met at 11 A.M., and that he would have to answer a question soon after proceedings opened. He suggested, therefore, that the delegations should meet at 9.30 A.M. or 10 A.M., in order to agree on the reply which he would return in Parliament.

Nahas Pasha agreed to 10 o'clock.

Mr. Henderson made it plain that he would only be able to stay for a short time as he would have to leave at 10.50. He added that agreement depended on the decision of the Egyptian delegation.

The meeting then adjourned.

Record of Proceedings at the Fourteenth Meeting with the Egyptian Delegation on April 17, at 10 A.M.

THE following were present :—

Egyptian Delegation.

Nahas Pasha.
Wacyf Ghali Pasha.
Osman Moharrem Pasha.
Makram Ebeid Bey.
Mustapha Sadek Bey.
Kamel Selim Bey.

British Delegation.

Mr. Henderson.
Lord Passfield.
Mr. Shaw.
Lord Thomson.
Sir R. Vansittart.
Sir P. Loraine.
Mr. Dalton.
Lieutenant-General Sir K. Wigram.
Major-General Charles.
Air Vice-Marshal Newall.
Mr. Clutterbuck.
Mr. Selby.
Mr. Murray.
Mr. Beckett.
Mr. Campbell.
Mr. Scrivener.
Mr. Mack.

A meeting of the British Committee was held before the arrival of the Egyptian delegation. Mr. Henderson informed the committee that Mr. Campbell had a conversation with various members of the Egyptian delegation in the early hours of this morning and had reported that the Egyptians still wanted to negotiate and bargain on points on which the British delegation were not disposed to bargain. The Egyptian delegation had, however, suggested that in the additional article of the treaty (see record of twelfth meeting) which the British delegation had proposed, the words "arising out of the application of the present treaty" should be altered to "arising out of the application of any article of the present treaty."

The committee decided that there was no objection to this proposal.

Mr. Henderson said that the Egyptian delegation also pressed for the return of the Egyptian battalion to the Sudan immediately after ratification of the treaty. Mr. Henderson pointed out that Mahmoud Pasha had fought hard last summer to get him to agree to this, but without success. The committee decided that they could go no further than the wording of the note with regard to the return of the battalion as published last summer.

Mr. Henderson invited Mr. Campbell to report to the committee on the points regarding the Capitulations which he had discussed with the Egyptian delegation this morning.

Mr. Campbell said that the Egyptians had agreed to accept the greater part of the British note in regard to the Capitulations as published last summer; they accepted the laws contemplated in the Hurst Scheme provided there was no reference to the scheme as such; the Egyptian delegation wanted to get away from the past as far as possible. If their suggestion was adopted it would be necessary to incorporate the text of the scheme in the note. Secondly, the Egyptians had pointed out that the reference to the Judicial Adviser could now be of no great importance from the British point of view, since he could only hold his post for two or three years. Thirdly, they expressed a wish to get away from the definition of the word "foreigner," but Mr. Campbell understood that they had finally accepted it. Fourthly, they wished to get away from the passage which mentioned the foreign members of the parquet. Mr. Campbell had pointed out that the omission of these words would not assist Egypt in negotiating the reform of the Capitulations with the other Powers, and His Majesty's Government, for their part, would not be able to support Egyptian resistance to the presence of such foreign members of the parquet; the Egyptians had quite understood this point, but had said that if the words were inserted, the other Powers would be encouraged to put forward excessive

demands; they had suggested that this part of the note might be redrafted. Fifthly, in the article of the treaty dealing with the Capitulations, they wanted the insertion of words admitting that the Capitulations would be ultimately abolished, such as "pending the abolition of the Capitulations." With regard to the Sudan note, they asked that the concession regarding immigration, commerce and property should be reworded to make it appear that it meant more. What they wanted was a form of words providing that no restriction should be placed on the liberty of Egyptians to emigrate to the Sudan. Mr. Campbell had pointed out that such a provision would not be admitted by any Government in the world. The Egyptians had then suggested that the wording should provide that no restriction should be imposed on the emigration to the Sudan of British subjects approved by the British Government or of Egyptian nationals approved by the Egyptian Government. They wanted similar wording with regard to commerce and property.

The committee decided that Mr. Campbell should inform the Egyptian delegation that the British Committee were unanimous that they could not go beyond the wording already agreed with regard to the return of the Egyptian battalion, that the wording of the Sudan note could not be revised, since it had been already approved by the Governor-General, that the committee accepted the insertion of the words proposed by the Egyptian delegation in the additional article, and that the points arising with regard to the Capitulations might be considered by the Egyptian and British experts with a view to coming to an agreement.

Mr. Campbell then withdrew to convey these decisions to the Egyptian delegation, who were accommodated in the Ambassadors' waiting room.

When Mr. Campbell returned, he explained that the only reply which Nahas Pasha had given was that if the position was as stated by Mr. Campbell, then the Egyptian delegation must consult the Egyptian Cabinet.

The committee considered that it was only fair that the Egyptian delegation, having failed to get what they were straining to get, should be allowed to consult their people in Egypt, and that proceedings should be adjourned until the week beginning the 28th April.

Mr. Henderson then retired and informed the Egyptian delegation of the opinion of the British Committee.

On his return, he said that the Egyptians wished to continue discussions with Mr. Murray, Mr. Beckett and Mr. Campbell on the question of the Capitulations; they had not had time yesterday fully to examine the British note; they were going to communicate with the Egyptian Cabinet by telegraph and by letter, and ask for a reply to the letter by telegraph.

The committee decided to give Mr. Henderson and his staff liberty to conclude an agreement with the Egyptians on the question of the Capitulations without going beyond the principles which had been laid down in the proposals of last summer, and also to try to settle the order of the articles of the treaty so that when proceedings were resumed all would be ready for signature if the Egyptians agreed.

Mr. Henderson then left for the House of Commons and the Egyptian delegation departed.

The Egyptian delegation returned at 12 and Mr. Henderson had another conversation with them in the Ambassadors' Waiting Room, after which both delegations assembled in the Secretary of State's room. The Egyptian members present were as stated at the beginning of this record. The British members were :—

Mr. Henderson.
Mr. Dalton.
Mr. Selby.
Mr. Murray.
Mr. Campbell.
Mr. Beckett.
Mr. Mack.

Mr. Henderson invited Nahas Pasha to make a statement.

Nahas Pasha said that he was very sorry that the Egyptian observations on certain points in the draft comprehensive note handed to them by the British delegation were understood by Mr. Henderson to be the only observations on that note which

the Egyptians wished to make; there were others; he had said clearly yesterday that he only mentioned the important points which struck him straight away after a cursory perusal, and that he had reserved other points for discussion on the following day. When he saw Mr. Henderson this morning he had again explained that there were other points on which he could not agree and would like to discuss them personally with Mr. Henderson; now Mr. Henderson said that the British Committee had broken up and that discussions could only take place after it returned; Nahas Pasha would have to tell his friends in Egypt that on these points also no agreement had been reached.

Mr. Henderson said that he had no objection to the position as stated by Nahas Pasha. Whatever had been said last night was governed by the Egyptian delegation's desire to adjourn negotiations; he was not denying the Egyptian delegation an opportunity for discussion with the British experts, nor did he object to their putting to the Cabinet in Egypt the points at issue. With reference to yesterday's discussion, Mr. Henderson had put to his colleagues the points in the comprehensive note mentioned by Nahas Pasha and a compromise had been reached; he had understood that it was not Nahas Pasha's intention thereafter to raise further points; he was quite clear in his mind on this point. In view of what Nahas Pasha had said, it would be necessary for Mr. Henderson to get his committee together again, and in the meantime the Egyptian delegation would consult their people in Egypt and communicate the result through the Egyptian Chargé d'Affaires, after which Mr. Henderson and his colleagues would consider the position.

Mr. Henderson said that there were one or two further points which he wished to raise. The first point was: did the Egyptian delegation propose to say in any statement which they communicated to the press that they were conferring with their Government? His reason for asking this question was that, in view of the statement which he had made a short time ago in the House of Commons that negotiations had been adjourned over the recess, the press might give all kinds of reasons for this decision and say that a hitch had occurred on this point or on that. He thought, therefore, that it was best that any communication which the Egyptian delegation thought fit to make to the press should be on the lines of the answer which he had returned to the House of Commons, but it might be amplified by saying that the Egyptian delegation desired to consult their Government, and that, after they had done so, negotiations would be resumed.

Nahas Pasha said that what he thought of saying was that the Egyptian delegation had found that they should confer with their Government on certain points which had arisen during the discussions.

Mr. Henderson agreed and added that there had been no supplementary questions in the House of Commons this morning. There was a further point. He understood that the Egyptian Government desired, if all went well, some alterations in the order of the articles. He asked whether it would be possible for the Egyptian delegation during the recess to rearrange the articles as they wished.

Nahas Pasha agreed to do so, but asked for a copy of the British print of the treaty to communicate to his people in Egypt.

Mr. Henderson agreed to this request on the understanding that the document was treated as strictly private and confidential, and was not to go beyond the Egyptian delegation and the Egyptian Cabinet; he pointed out that the only copies in London were in the Foreign Office and would not leave the building; consequently, if any leakage took place he would know that the blame did not rest with us.

Nahas Pasha accepted this understanding.

Mr. Henderson said that he had one further point. It would be necessary to close negotiations as soon as possible after the reassembly of Parliament. He wanted to know whether, if signature did take place, his Excellency had a date in mind for putting the treaty to the Egyptian Parliament.

Nahas Pasha said that if all went well and the treaty was signed this would be done immediately. He asked for nothing better than to be in a position to submit the treaty to the Egyptian Parliament immediately.

Mr. Henderson said that this was a very important point, since he wished if possible to try to avoid any debate in the House of Commons until Egypt had ratified. Once the treaty was signed there would be requests for a debate here, and he did not want to make the position more difficult for Nahas Pasha by such a debate. His idea would be that when Egypt had ratified then he should arrange for a debate in the House of Commons.

Nahas Pasha repeated that if all went well and the treaty was signed it would be easy to arrange all these points.

It was decided that the Egyptian delegation should inform the British delegation when they were ready, and that if all went well the treaty should be concluded as early as possible in the week beginning the 28th April.

Mr. Henderson repeated that the document which he had communicated to the Egyptian delegation would not be published here, and that it was very confidential on both sides.

The meeting then adjourned.

The text of the document communicated to the Egyptian delegation forms an annex to this record.

ANNEX.

Proposed Anglo-Egyptian Treaty.

HIS Majesty the King of Great Britain, Ireland and the British Dominions beyond the Seas, Emperor of India, and His Majesty the King of Egypt,

Being anxious to consolidate the friendship and perpetuate the relations of good understanding between them and to co-operate in the execution of their international obligations in preserving the peace of the world,

And considering that these objects will best be achieved by the conclusion of a treaty of friendship and alliance, which in their common interest will provide for effective co-operation in preserving peace and ensuring the defence of their respective territories, and shall govern their mutual relations in the future,

Have agreed to conclude a treaty for this purpose, and have appointed as their plenipotentiaries:—

His Majesty the King of Great Britain, Ireland, and the British Dominions beyond the Seas, Emperor of India:
for Great Britain and Northern Ireland:

His Majesty the King of Egypt:

who, having communicated their full powers, found in good and due form, have agreed as follows:—

ARTICLE

The military occupation of Egypt by the forces of His Britannic Majesty is terminated.

ARTICLE

An alliance is established between the High Contracting Parties with a view to consolidating their friendship, their cordial understanding and their good relations.

ARTICLE

As Egypt intends to apply for membership of the League of Nations, His Britannic Majesty recognises her right as a sovereign independent State to become a member of the League on complying with the provisions of the Covenant of the League.

ARTICLE .

Each of the High Contracting Parties undertakes not to adopt in foreign countries an attitude which is inconsistent with the alliance, or to conclude political treaties inconsistent with the provisions of the present treaty.

ARTICLE .

Should a dispute with a third State arise which, in the terms of article 12 of the Covenant of the League of Nations, is likely to lead to a rupture with that State, the High Contracting Parties will consult each other with a view to the settlement of the said dispute by peaceful means, in accordance with the provisions of the Covenant and of any other international obligations which may be applicable to the case.

ARTICLE .

His Britannic Majesty recognises that the responsibility for the lives and property of foreigners in Egypt devolves exclusively upon the Egyptian Government, who will ensure the fulfilment of their obligations in this respect.

ARTICLE .

Should, notwithstanding the provisions of article above, either of the High Contracting Parties become engaged in war, the other High Contracting Party will, subject always to the provisions of article below, immediately come to his aid in the capacity of an ally. The aid of His Majesty the King of Egypt, in the event of war, or imminent menace of war, will consist in furnishing to His Britannic Majesty on Egyptian territory, in accordance with the Egyptian system of administration and legislation, all the facilities and assistance in his power, including the use of his ports, aerodromes and means of communication. It will accordingly be for the Egyptian Government to take all the administrative and legislative measures necessary to render these facilities and assistance effective.

ARTICLE .

In view of the fact that the Suez Canal, while being an integral part of Egypt, is a universal means of communication as also an essential means of communication between the different parts of the British Empire, His Majesty the King of Egypt, until such time as the High Contracting Parties agree that the Egyptian forces are in a position to ensure by their own resources the liberty and entire security of navigation of the Canal, authorises His Britannic Majesty to station in the neighbourhood of Ismailia and in the area to the west of Ismailia as far as Mahsara railway station such forces as His Britannic Majesty considers necessary to ensure in co-operation with the Egyptian forces the defence of the Canal; for the same purpose the Royal Air Force depot will be transferred from Abukir to Port Fuad. The British forces will have access to the desert areas on either side of the Canal for purposes of training and manoeuvre. The presence of these forces shall not constitute in any manner an occupation and will in no way prejudice the sovereign rights of Egypt.

It is understood that, at the end of the period of twenty years specified in article the question whether the presence of British forces is no longer necessary owing to the fact that the Egyptian forces are in a position to ensure by their own resources the liberty and entire security of navigation on the Canal may, if there is any difference between the High Contracting Parties, be submitted for settlement in accordance with the provisions of the Covenant of the League of Nations.

ARTICLE .

His Britannic Majesty recognises that the capitulatory régime now existing in Egypt is no longer in accordance with the spirit of the times and with the present state of Egypt.

His Britannic Majesty accordingly undertakes to use all his influence with the Powers possessing capitulatory rights in Egypt to obtain, in conditions which will safeguard the legitimate interests of foreigners, the transfer to the Mixed Tribunals of the jurisdiction of the existing Consular Courts, and the application of Egyptian legislation to foreigners.

ARTICLE .

In view of the friendship between the High Contracting Parties and of the alliance contemplated in the present proposals, His Britannic Majesty will be represented at the Court of His Majesty the King of Egypt and His Majesty the King of Egypt at the Court of St. James by Ambassadors duly accredited.

ARTICLE .

While reserving liberty to conclude new conventions in future modifying the conventions of 1899, the High Contracting Parties agree that without prejudice to Egypt's rights and material interests the status of the Sudan shall be that resulting from the said conventions. Accordingly, the Governor-General shall continue to exercise on the joint behalf of the High Contracting Parties the powers conferred upon him by the said conventions.

ARTICLE .

Nothing in the present proposals is intended to or shall in any way prejudice the rights and obligations which devolve, or may devolve, upon either of the High Contracting Parties under the Covenant of the League of Nations or the Treaty for the Renunciation of War signed at Paris on the 27th August, 1928.

ARTICLE .

The High Contracting Parties agree that any difference on the subject of the application or the interpretation of the provisions of the present treaty which they are unable to settle by direct negotiation shall be dealt with in accordance with the provisions of the Covenant of the League of Nations.

ARTICLE .

At any time after the expiration of a period of twenty years from the coming into force of the Treaty, the High Contracting Parties will, at the request of either of them, enter into negotiations with a view to such revision by agreement between them of its terms as may be appropriate in the circumstances as they then exist. In case of disagreement the difference will be dealt with in accordance with the provisions of the Covenant of the League of Nations.

Nevertheless, at any time after the expiration of a period of ten years from the coming into force of the Treaty, negotiations may be entered into with the consent of both the High Contracting Parties with a view to such revision as aforesaid.

ARTICLE .

Without prejudice to the provisions of article , the High Contracting Parties agree, if either of them should so request, to enter into friendly discussions within one year from the coming into force of the Treaty with regard to any question arising out of the application of any article of the present Treaty with respect to which any difficulty may have arisen.

ARTICLE .

The present Treaty is subject to ratification. Ratifications shall be exchanged in Cairo as soon as possible. The Treaty shall come into force on the date of the exchange of ratifications.

In faith whereof, &c.

Draft Egyptian Note.

Sir,

I wish to place on record the understandings which have been reached between us in regard to various important matters arising out of or in connexion with the Treaty which we have signed to-day.

In regard to matters of a military character we are agreed as follows:—

(1) British personnel shall be withdrawn from the Egyptian Army and the functions of the Inspector-General and his staff shall terminate.

(2) The Egyptian Government, desiring to perfect the training of the Egyptian Army and intending, as a natural consequence of the alliance which has been established, that such foreign instructors as they may deem necessary shall be chosen from amongst British subjects only, will avail themselves of the advice of a British military mission. His Majesty's Government in the United Kingdom will furnish the military mission which the Egyptian Government desire and will also undertake to receive, and provide training in the United Kingdom for, any personnel of the Egyptian forces which the Egyptian Government may desire to send for the purpose of being trained. In the circumstances created by this Treaty the Egyptian Government will naturally not desire to send any personnel of their armed forces to be trained abroad elsewhere than in the United Kingdom.

(3) In the interests of the alliance and in view of the possible necessity of active co-operation between the British and Egyptian forces, the armament and equipment of the Egyptian forces shall not differ in type from those of the British forces. His Majesty's Government in the United Kingdom undertake to use their good offices to facilitate the supply of such armament and equipment from the United Kingdom whenever the Egyptian Government so desire.

(4) With reference to Article 9 of the Treaty, it is understood that, if, after a survey of the ground in the neighbourhood of Ismailia, the two Governments are not agreed that there is a sufficient area of hard desert, west of the Canal and in the immediate vicinity of Ismailia or westwards between Ismailia and Mahsma railway station, to provide adequate accommodation and training grounds for 8,000 men of the land forces, the Egyptian Government will provide at some place to be agreed upon situated south of Ismailia and west of the Canal a further area of land adequate and suitable for the accommodation and training of 2,500 men of the land forces.

(5) The Egyptian Government will accord, and provide where necessary, all reasonable means of communication and access to and from the localities where the British troops are situated and will also accord facilities at Port Said and Suez for the landing and storage of British military material and supplies.

(6) The Egyptian Government will provide for the British troops, 8,000 of the land forces and 3,000 of the Air Force, less the number for which accommodation already exists in these localities, free of cost to the Government of the United Kingdom, in the localities agreed upon in accordance with Article 9 of the Treaty and paragraph (4) above, the lands and permanent accommodation, including an emergency water supply, suitable according to modern generally recognised standards and satisfactory to His Majesty's Government. In addition to providing the accommodation above-mentioned the Egyptian Government will take steps, having regard to the character of the localities where British troops will be stationed, to furnish reasonable amenities by planting tree gardens, &c., for the troops. They will also provide a convalescent camp on the Mediterranean coast.

When such accommodation is fully completed the British forces then present in other parts of Egypt will withdraw therefrom and will hand over to the Egyptian Government all land and buildings so vacated, other than those in private ownership.

(7) Subject to any modifications which the two Governments may agree to introduce in the future, the immunities and privileges in jurisdictional and fiscal matters, including freedom from taxation, at present enjoyed by the British forces in Egypt will continue to be extended to all the armed forces of His Britannic Majesty in that country. The Egyptian Government will take the necessary steps to ensure that the altered conditions after the transfer of the British troops to the localities mentioned above will not render their position as regards immunities and privileges in any way less favourable than that which they at present enjoy in Egypt.

(8) Unless the two Governments agree to the contrary, the Egyptian Government will prohibit the passage of aircraft over the territories situated on either side

of the Suez Canal and within 20 kilometres of it. This prohibition will not, however, apply to the forces of the two Governments or to services maintained by genuinely British or Egyptian organisations, operating under the authority of the Egyptian Government.

(9) The Egyptian Government will give all necessary facilities to British aircraft, personnel and stores on passage to and from the aerodromes placed at the disposal of the British forces in accordance with Article 9 of the Treaty and for the purpose of such passage will secure the maintenance and availability at all times of such aerodromes and landing grounds in Egyptian territory as are required. Visits by representatives of the British Air Force for the purpose of ascertaining the condition of such aerodromes and laying the necessary fuel dumps shall be permitted. His Majesty's Government will give reciprocal facilities in their aerodromes in the Canal zone to Egyptian military aircraft, personnel and stores on passage to and from Egyptian aerodromes.

In regard to other matters:—

(10) The Egyptian Government intend to abolish the European Bureau of the Public Security Department, but will retain for five years from the coming into force of the Treaty a certain European element in their city police which will remain for the same period under the command of British officers.

With a view to facilitating the gradual substitution of Egyptian officials for the said European element and thereby securing the harmonious working of the police organisation, the Egyptian Government propose to dispense annually with the services of one-fifth of the number of European police officials. The Egyptian Government intend, however, to employ for the whole period British Police commandants at the head of such European element.

(11) The Egyptian Government are anxious to have expert assistance for the extensive programme of internal reforms which they contemplate. They intend to maintain for the remaining period of their existing contracts the Financial Adviser to the Egyptian Government and Judicial Adviser to the Ministry of Justice. The occupants of these posts hold their appointments as Egyptian officials from the Egyptian Government.

(12) The Egyptian Government, in view of the treaty of friendship and alliance signed to-day, will naturally, when engaging the services of foreign experts, as a rule give preference to British subjects possessing the necessary qualifications.

(13) The two Governments agree that the question of the indebtedness of the Sudan to Egypt shall now be examined with a view to settlement on fair and equitable lines and that for this purpose a representative of the Treasury of the United Kingdom and of the Egyptian Ministry of Finance should discuss the question as soon as the treaty comes into force.

(14) The two Governments are agreed that there shall be no discrimination in the Sudan between British subjects and Egyptian nationals in matters of commerce and immigration or the possession of property. It has further been agreed that, if the treaty is worked in the same friendly spirit in which it has been negotiated, His Majesty's Government in the United Kingdom will be prepared to examine sympathetically a proposal for the return to the Sudan of an Egyptian battalion simultaneously with the withdrawal of the British forces from Cairo.

(15) As regards the method by which international conventions are to be made applicable to the Sudan, the two Governments are agreed as follows:—

The conventions which it will be desired to apply to the Sudan will naturally be conventions of a technical or humanitarian character.

In cases where such a convention is signed on behalf of both Egypt and the United Kingdom, and it is desired that the convention should be applied to the Sudan, the British and Egyptian delegates will at a convenient moment make a joint declaration, to be duly placed on record, to the effect that their signatures on behalf of Egypt and the United Kingdom respectively are intended, taken together, to cover the Sudan, and (in cases where the convention requires ratification) that, when the ratifications of both the King of Egypt and His Britannic Majesty have been deposited, the convention will become applicable to the Sudan in accordance with its terms. If no such declaration is made the convention will not become applicable to the Sudan, unless by the method of accession, to which reference is made later.

In cases where such a declaration has been made, no special mention would be made of the Sudan in the instruments of ratification.

In some cases, where the convention provides for subsequent accession, and it may be convenient that the convention should be applied to the Sudan by this method, accession would be effected by a joint instrument signed on behalf of Egypt and the United Kingdom respectively by two persons duly appointed for the purpose. The method of depositing the instrument of accession would be the subject of agreement in each case between the two Governments. In such cases no question of ratification arises.

At international conferences where such conventions are negotiated the Egyptian and British delegates would naturally keep in touch with a view to any action which they may agree to be desirable in the interests of the Sudan.

(16) With regard to Article 12 of the Treaty the Egyptian Government, anxious to mark the satisfaction which the appointment of a British representative as the first Ambassador in Egypt affords them intend that his precedence in relation to the representatives of other Powers shall extend to his successors.

(17) With regard to Article of the Treaty the two Governments agree that immediately the Treaty comes into force they will determine in consultation the lines on which, in their opinion, the reform of the capitulatory régime should proceed and on which His Majesty's Government in the United Kingdom should support the Egyptian Government in their efforts to conclude appropriate arrangements with the capitulatory Powers.

Sir,

In reply to your note of to-day's date, I have the honour to confirm the record contained in your note of the understandings which have been reached between us with regard to matters arising out of or in connection with the Treaty which has been signed to day

[J 1304/4/16]

No. 39.

Mr. A. Henderson to Mr. Hoare (Cairo)

(Unnumbered.)
(Private and Personal)
(Telegraphic.)

Foreign Office, April 18, 1930

FOLLOWING from Murray:—

"I sent you by bag yesterday copy of draft treaty and connected omnibus note as communicated to Nahas by Secretary of State after latter had announced adjournment of negotiations in Parliament

"Following entirely personal appreciation of present position may be helpful to you:—

"When meeting on the 16th April broke up at 7.30 p.m., before dinner at Egyptian Legation, there was reason to think that above text would be acceptable to, and accepted by, Nahas during course of the evening subject, possibly, to inclusion in omnibus of 1929 Capitulations note with unimportant modifications, though we should have preferred its omission. After dinner Nahas made it clear that Egyptian delegation felt that Sudan provisions (treaty and note) did not go far enough to meet them, in particular as penultimate article (agreement to negotiate within one year) was general instead of specifically connected with, and forming part of, Sudan article. Secretary of State made it no less clear that His Majesty's Government would go no further. During night Campbell learnt that Sudan was not the only stumbling-block and that Egyptians did not regard themselves as by any means committed to all of military section of note and, besides, required considerable changes in 1929 Capitulations note

"This was confirmed at meeting yesterday morning, and further negotiations were adjourned to give Egyptians time to refer result up to date to their colleagues in Cairo.

"My own impression is that Egyptian delegation were very near accepting on the 16th April, and might have done so but for Makram and, presumably, Maher. The Egyptian horse has been galloped at his fences, and it is less

surprising that he should have run out before the finish than that he should have completed so much of the course. Had the pace been slower there is no reason to think that he would have lasted longer.

"As it is, position is reminiscent of climax of Milner negotiations in 1920 and, just as Saad shuffled off responsibility on to members of old legislative assembly, so do present delegation appear to be shuffling responsibility on to Wafdist party.

"I hope to be able to get official instructions sent to you on the 22nd April."

[J 1308/4/16]

No. 40.

Mr. Hoare to Mr. A. Henderson.—(Received April 20)

(No. 187 Private and Personal.)
(Telegraphic.) P.

Cairo, April 20, 1930

FOLLOWING for Murray:—

"I conclude from your telegram, for which many thanks, that further concessions are definitely out of the question. All the same I send you a telegram which I drafted on the 16th April, as it stands. Parts of it are irrelevant, but I hope that when you draft my instructions you will bear my views in mind:—

"To my mind the records of negotiations which I have received by bag and read with the greatest interest are extremely discouraging.

"Circumstances obviously dictate an attitude of reserve on my part. While maintaining this attitude most scrupulously, I have definitely received the impression that the general atmosphere is unhealthy. I suspect that Makram, Nokrashi and Maher now control Wafdist policy entirely. Makram is a Copt and nobody believes the Copts wish for a change. Nothing could have been more violently unacceptable to us than his sophistical assertion of Egyptian claims as recorded by Mr. Campbell. I do not doubt that Nokrashi and Maher would wholeheartedly accept a settlement, but, unfortunately, not one acceptable to His Majesty's Government.

"As I see the issue, minor concessions here or there, or, conversely, a stiffening of our attitude is unlikely to modify the attitude of my triumvirate. There are no concessions which you can offer which will render the treaty really acceptable to them, and concessions are, therefore, not worth offering. Makram will simply hold out for an unobtainable maximum in order that he, and through him his brethren, may continue to be heroes and patriots, or, if his colleagues decide against him, may become super-heroes and super-patriots. Maher and Nokrashi may decide to accept it as a jumping-off ground, or to reject it because, in their opinion, their jumping-off ground would then be a better one."

"Nokrashi and Maher may decide to overrule Makram if my surmises are correct, but, in the light of all the information which I have recently telegraphed, this is improbable.

"I cannot believe that the King wants the treaty. He has astounding gifts of auto-hypnotism, I know, but not, I fear, to the point of believing that he would prosper if left alone with his people without a reassuring background of British troops. He would be profuse in expressions of goodwill, but behind the scenes he would remain inactive.

"Judging from a recent conversation I had with Nokrashi, he may well be responsible for the unexpected difficulty over the army. You realise, of course, that no argument at my disposal would carry the slightest weight with him.

"I learn from a generally good source that delegation has already telegraphed to the rest of the Cabinet, explaining the position and asking advice whether to climb down or break off negotiations.

"Generally, I should deprecate instructions to make any serious effort on behalf of the treaty, as I feel that the only impression I should make on the recipients of my representations would be that our understanding of the intention was exiguous."

[21319]

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[J 1306/4/16]

No. 41.

Mr. Hoare to Mr. A. Henderson.---(Received April 21.)(No. 188. Secret.)
(Telegraphic.)

Cairo, April 20, 1930.

CABINET met on the evening of 18th April to discuss a long telegram from Nahas stating that a satisfactory settlement had been reached except in regard to the Sudan. Troops would be stationed at Ismailia with aerodromes at Abu Sueir and Port Said. While acknowledging your friendly attitude, Nahas and Makram favoured rupture of negotiations, but at the instance of the Minister for Foreign Affairs, who still hoped for agreement, Nahas invited views of Ministers here.

Nokrashi is definitely for rupture, and Safwat is against. Two other meetings have been held, and Ministers and Wafd will meet this evening, after which a joint recommendation will be telegraphed.

This from a well-informed source.

[J 1317/4/16]

No. 42.

Mr. Hoare to Mr. A. Henderson.---(Received April 22.)(No. 191. Secret.)
(Telegraphic.)

Cairo, April 22, 1930.

MY telegram No. 188.

Holidays and also receipt by air mail of full record of proceedings have apparently led to postponement of meeting of Ministers and Wafd.

[J 1282/4/16]

No. 43.

Mr. A. Henderson to Sir J. Maffey (Khartum).(Unnumbered.)
(Telegraphic.)

Foreign Office, April 22, 1930.

YOUR unnumbered telegram of the 16th April. Present position is that Egyptian delegation are referring to their colleagues in Cairo result up to date of negotiations as a whole, and particularly as regards the Sudan, and we shall not know definitely outcome of this consultation until the end of the month.

2. As regards the legal position of the question raised in paragraph 4 of your telegram, the present negotiations have introduced no departure whatever from the proposals of 1929. Under article 15 of those proposals any difference with regard to the interpretation or application of any article of the treaty (including, therefore, article 13) could be dealt with in accordance with the provisions of the Covenant of the League of Nations. It was clearly impossible in the present negotiations to introduce any qualification or restriction in this matter. It is not to be assumed, however, that Egypt will readily desire to avail herself of article 15 with regard to the Sudan; she cannot feel sure of winning her case, and an adverse decision might put an end to all her Sudan aspirations. I am, indeed, advised that, for the reasons given at the end of this telegram, it is improbable that she would be able to secure any decision seriously inconsistent with the existing state of affairs.

3. You will, of course, realise that, even if the present treaty arrangements contained no provisions whatever with regard to the Sudan, it is far from certain that Egypt would be unable in the relatively near future to bring the question of the Sudan to international arbitration. If, for instance, Egypt were to become a member of the League (and this is by no means impossible) and, as such, to sign the protocol of the Permanent Court of International Justice, including the optional clause of that statute, she might be able to raise the question of the Sudan before the court under the optional clause. It is, at any rate, uncertain whether Egypt might not be able to raise questions relating to the Sudan in such a way that His Majesty's Government's exclusion of "situations or facts prior to their ratification" of that clause would fail to exclude the jurisdiction of the court. If this were to happen, His Majesty's Government would be confronted before the court with a situation far more unfavourable from a legal point of view than that created by the proposals now under negotiation. Egypt might seek to dispute the validity of the 1899 Convention and, even if she based her claim upon the 1899 Convention, she would

not be hampered by the interpretations and glosses on that convention contained in the 1929 proposals and retained in the present negotiations. The words in article 13 "The Governor-General shall *continue* to exercise," at any rate afford an argument in favour of the view that the present *de facto* state of affairs is accepted by the high contracting parties as that resulting from the 1899 Convention. Further, the retention in the notes to be attached to the new treaty of a provision making the return of an Egyptian battalion to the Sudan a matter for the sympathetic consideration of His Majesty's Government conditional upon Egypt's good behaviour strongly supports such a view. Lastly, the wording of article 15, "in accordance with the provisions of the Covenant of the League of Nations," leaves open the possibility of recourse to the Council of the League as an alternative to a purely judicial body.

(Repeated to Cairo, No. 151.)

[J 1306/4/16]

No. 44.

Mr. A. Henderson to Mr. Hoare (Cairo).

(No. 150.)

(Telegraphic.) R.

Foreign Office, April 22, 1930.

YOU should seek an early audience of King Fuad and tell him that, although he has doubtless had full reports from his own Government on the course of the negotiations and the position which has now arisen, I feel that it is only fair to His Majesty, in view of his consistent support of a treaty settlement, to inform him how the situation is regarded by His Majesty's Government in the United Kingdom.

Although I had publicly described the treaty proposals of last year as "the extreme limit to which I could recommend His Majesty's Government to go," my colleagues and I were ready to interpret this declaration generously. There is hardly an article in the draft treaty which I believed had been agreed with Nahas Pasha that does not expose me to the charge of having gone further to meet Egyptian aspirations than the 1929 proposals went. But, as I informed the Egyptian delegation, I was ready to stand up to this criticism in the confident belief that the settlement achieved was in itself the justification for the concessions on our part which had made it possible.

In so far as concerns the Sudan provisions, the inadequacy of which, from the Egyptian point of view, was the principal reason adduced by Nahas Pasha for his eleventh-hour refusal to sign the treaty, I pointed out to him that he appeared to make no allowance for the effect which the treaty settlement would inevitably have upon that problem, and that difficulties which to-day seemed insoluble might well have become far less formidable in the atmosphere engendered by a few years of loyal co-operation as allies.

I regret profoundly that my words were unavailing and that an opportunity for settlement which it would be rash to assume will ever occur again is in danger of being missed. I do not ask His Majesty to intervene, but I am anxious that he should appreciate the attitude of His Majesty's Government, and realise the grave misgiving with which they view the failure of the Egyptian delegation, as it seems to them, to realise the gravity of the present issue.

[J 1332/4/16]

No. 45.

Mr. Hoare to Mr. A. Henderson.---(Received April 23.)

(No. 192.)

(Telegraphic.) R.

Cairo, April 23, 1930.

YOUR telegram No. 150.

I have arranged audience for noon to-morrow.

I anticipate that the King may show some wish for expansion of last sentence. If so, I shall say that to my mind it means that if His Majesty considers that he can use and properly, within his constitutional prerogatives, bring pressure on delegation His Majesty's Government will welcome such action, but decision and initiative lie with His Majesty, and that outline of situation which I had just given him was intended to assist him in deciding whether he could usefully intervene.

[J 1332/4/16]

No. 46.

Mr. A. Henderson to Mr. Hoare (Cairo).

(No. 153. Private.)

(Telegraphic.) R.

Foreign Office, April 23, 1930.

FOLLOWING from Oliphant:—

“Your telegram No. 192 of 23rd April: Audience of King Fuad.

“Secretary of State is absent. I know that it was his definite intention when approving text of his telegram No. 150 of 22nd April not to ask His Majesty to intervene.

“In these circumstances, while your language appears suitable as expressing your personal opinion, it would be well to lay considerable emphasis on fact that decision and initiative must and can only lie with His Majesty.”

[J 1365/4/16]

No. 47.

Mr. Hoare to Mr. A. Henderson.—(Received April 24.)

(No. 193.)

(Telegraphic.) R.

Cairo, April 24, 1930.

YOUR telegram No. 150.

I have delivered your message, and the King asked me to thank you for your courteous communication. He had throughout worked for the treaty and would continue to do so in duty to his country. In reply to my question he said that he knew very little about the progress of negotiations, and I told him I was not so fully informed as I could have wished, as I had only received bag this morning instead of yesterday afternoon. The King said he had seen Nokrashi, who had told him he had not yet been able to study the documents sent by the delegation and who had not made it at all clear to His Majesty exactly what had been sent. Nokrashi had told him that in principle he was strongly in favour of a settlement; indeed, His Majesty was sure that the whole Government were.

His Majesty fully realised that the Sudan was the stumbling-block, and repeatedly said that surely we could find a formula satisfactory to all parties. I replied that if it were really a question of formula one could no doubt be found, but I feared that the delegation was demanding matters of substance, and I repeated the point which you have endeavoured to bring home to Nahas Pasha.

I then said that I saw nothing in the draft treaty which would debar Egypt from pressing her claims (“rights,” said His Majesty) at a later date. This led His Majesty to tell me that on the subject of the Sudan Egyptians were as one man and that my whole conception of Egyptian affairs would be at fault if I was ignorant of this fact. I assured him that I was aware of it.

At the close of the conversation, which His Majesty had resumed while we were standing together for my taking my leave, I again said that the effect of a loyal alliance might well be to dissipate difficulties now regarded as insoluble; he replied by putting his hand on my shoulder and intimating that in dealing with practical and vital issues it was not possible to discount the future.

This, coupled with an earlier statement that he could not understand why the delegation should have thought it necessary to refer back to Egypt at all, satisfies me that His Majesty does not intend, in the light of recent developments, to assume any responsibilities that he can reasonably avoid.

[J 1366/4/16]

No. 48.

Mr. Hoare to Mr. A. Henderson.—(Received April 24.)

(No. 194.)

(Telegraphic.)

Cairo, April 24, 1930.

FOLLOWING for Mr. Murray:—

“Article 10 of the Omnibus note is rendered definitely ambiguous by the last sentence, which appears to admit the interpretation that Egyptian commandants can be appointed for Egyptian police.”

[J 1381/4/16]

No. 49.

Sir J. Maffey to Mr. A. Henderson.—(Received April 25.)

(Telegraphic.)

Khartum, April 25, 1930.

YOUR telegram, unnumbered, of 22nd April.

1. I am grateful for the fulness with which the legal position is now stated. I fully recognise that the present negotiations have introduced no change from 1929 in respect of article 15. It was for this reason we had hoped that the categorical description “net result” in your telegram, unnumbered, of 16th April implied that the result had been to establish clearly our interpretation as distinct from that of Egypt in respect of the words “resulting from” in article 13.

2. Since it has not been possible to establish our interpretation by any modification of article 13, although that article has been modified to meet Egyptian wishes, we must rely on your advice that it is impossible that Egypt would be able to secure any decision seriously inconsistent with the existing state of affairs.

3. In this connexion, however, it is somewhat significant that at the time of arrival in England of the Egyptian delegation the “Times,” in an article headed “Britain and Egypt” (26th March, p. 18, first column, lines 16 to 21), interpreted article 13 as Egypt claims it should be interpreted.

(Repeated to Cairo, No. 76.)

[J 1391/4/16]

No. 50.

Mr. Hoare to Mr. A. Henderson.—(Received April 26.)

(No. 195.)

(Telegraphic.) R.

Cairo, April 26, 1930.

MY telegram No. 193.

The King sent for Nokrashi after my audience, but, according to Tewfik Nessim, who was at dinner for residency given by Acting Minister for Foreign Affairs last night, Nokrashi said he could give His Majesty little information as he had not yet been able to make a thorough study of documents sent out from London. Nokrashi subsequently called on Adly Pasha, who told me that his general impression was that Nokrashi did not intend to be unreasonable.

On the other hand, press has been vigorously working up interest in Sudan, and largely-attended meeting of retired officers yesterday passed resolution calling on Government to stand firm.

Ministers have held a series of meetings, but so far as I know have not even definitely decided whether to consult Wafd or not.

Perusal of records of meetings leaves on me impression that, whereas arguments and views of His Majesty's Government are based on consideration of facts and circumstances in actual existence, replies of delegation start from a different plane, i.e., the old thesis that servitudes maintained by declaration of 1922 do not exist because in Egyptian view of international law they should not exist. They therefore consider they are making a great concession in allowing us to maintain any troops in Canal zone.

[J 1392/4/16]

No. 51.

Mr. Hoare to Mr. A. Henderson.—(Received April 26.)

(No. 197.)

(Telegraphic.) R.

Cairo, April 26, 1930.

MY telegram No. 195.

Mr. Hore-Belisha had interview with Nokrashi this morning, who told him that Egyptians could not possibly accept His Majesty's Government's proposals regarding the Sudan. They had submitted to humiliation of British troops remaining on Egyptian soil in the hope of securing their minimum in the Sudan. If they failed to do so treaty was doomed.

[21319]

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I presume Cabinet had already met and reached this decision.
Mr. Hore-Belisha asked whether it would not be possible to postpone the Sudan issue. Nokrashi hesitated, and speaking obviously for himself said that it might be possible, but, in that case, other articles of treaty must be modified.
(Repeated to Khartum.)

[J 1390/4/16]

No. 52.

Sir J. Maffey to Mr. A. Henderson.—(Received April 27.)

(Telegraphic.)

Erkowit, April 27, 1930

IF negotiations break down wholly or partly on the Sudan issue, position will be that it has been demonstrated indisputably that meaning of condominium agreement is interpreted in diametrically opposite senses by the two parties of condominium. This creates a situation lacking all elements of stability required for peaceful progress, and we urge most strongly that an authoritative public statement be made as soon as possible to the effect that His Majesty's Government, in pursuance of trust they have undertaken, definitively assume the responsibility for full control of the Sudan while safeguarding Egypt's material interests in the matter of the Nile and her southern frontier.

(Repeated to Cairo, No. 77.)

[J 1395/4/16]

No. 53.

Mr. Hoare to Mr. A. Henderson.—(Received April 28)

(No. 198.)

(Telegraphic) R.

Cairo, April 28, 1930.

MY telegram No. 197.

Having heard that there was a good deal of optimism about the treaty, I asked Financial Adviser this morning to see Nokrashi and ascertain what his language to Mr. Hore-Belisha meant. Nokrashi expressed surprise that he should have conveyed the impression that treaty was doomed. He repeated in substance much of what he had said to Mr. Hore-Belisha, but said again and again that he could not believe that a solution or formula could not be found. He said that part of the difficulty was that Egyptians could not understand what were the British objections to effective Egyptian participation in the administration of the Sudan. If they could be explained honestly and frankly Egyptians might be able to meet them just as they had accepted presence of British troops on Canal, distasteful though it was, because they realised that genuine and vital British interests were involved.

Financial Adviser asked Nokrashi what recommendations Cabinet had made to the delegation, but he would not say, though he indicated that further correspondence between Cairo and London might be necessary in the light of to-morrow's discussions.

(Repeated to Erkowit.)

[J 1404/4/16]

No. 54.

Mr. Hoare to Mr. A. Henderson.—(Received April 28)

(Nos. 200 and 201.)

(Telegraphic.)

Cairo, April 28, 1930.

I HAVE for some time been turning over in my mind the situation which will arise if negotiations fail.

After the Sarwat negotiations there were various possible alternative Governments. Now the only alternative is a Palace régime.

I therefore believe we must make every effort to maintain tolerable relations with the Wafd. That being so, it would be a mistake to make to Wafdist Government, and especially to the public, any communication on the lines of Lord Lloyd's note of 4th April, 1928, after the failure of the Sarwat negotiations. Anything of the sort constitutes a challenge which in Wafdist eyes must be taken up, because, if it is not, the declaration of 1922 will receive some measure of Egyptian consent.

My main difficulty in making suggestions lies in my doubt whether the Prime Minister can be brought to realise existing facts, and this consideration applies more or less to the other Ministers now in London, with the exception of the Minister for Foreign Affairs.

(R.) However, the situation might perhaps be put to Egyptians somewhat as follows in a farewell conversation:—

"Negotiations have never been conducted in an atmosphere more favourable to a settlement, and you believe you would compromise Egypt's future and her inalienable rights if you sign anything which does not give you more in the Sudan than we are willing to surrender.

"In view of manifold advantages which would have accrued to you from proposed settlement, it is evident that you attach far greater importance to the Sudan than to anything else.

"In the past failure to reach a settlement has been followed by demonstrations and disorders and sometimes by outrages, which, especially so far as the Sudan is concerned, definitely injured your position. On the last occasion a Government which was predominantly Wafdist appeared deliberately to go out of its way to challenge a position which His Majesty's Government was bound to maintain, and the result was disaster.

"Logical conclusion to be drawn from this short review is that, even if you do not admit that a policy of deliberate antagonism to Great Britain has retarded Egypt's attainment of full national sovereignty, it cannot be denied that such a policy can do nothing to modify situation in the Sudan unless it be to Egypt's detriment.

"There must be enough work, both legislative and administrative, to be done in Egypt to render it entirely unnecessary to raise issues which in the present *de facto* conditions are bound to lead to a collision. Half of the countries in Europe have claims or aspirations which they do not renounce but which they have the wisdom not to assert forcibly.

"If, therefore, you are willing not to attack reserved points, we are anxious not to assert them and thereby wound your *amour-propre*. In that case there is no reason why failure of negotiations should impair friendly relations now existing. Your position in Egypt is sufficiently strong for you to be able to ignore any taunts about subserviency to England.

"To put the matter in a nutshell, at the present moment we are definitely convinced that Egyptian participation in the Sudan would be prejudicial to ordinary development of that great territory. You obviously would only strengthen that view by adopting a generally hostile attitude towards us. The other alternative may or may not be to achieve the purposes you have at heart, but as there is no third course open to you and as it is one that will promote the welfare of Egypt you may just as well adopt it." (End of R.)

I had drafted this without any definite intention of despatching it before I received Sir J. Maffey's telegram of yesterday. I fear the statement he suggests would have serious repercussion here and tend to unite every class of Egyptian against us.

(Repeated to Erkowit.)

[J 1405/4/16]

No. 55.

Mr. Hoare to Mr. A. Henderson.—(Received April 28)

(No. 202.)

(Telegraphic.) R.

Cairo, April 28, 1930.

GENERAL impression here is that decision taken by Egyptian Ministers in London and here is to accept treaty more or less in last form offered, provided that some formula be added guaranteeing Egypt right to immigration to Sudan and reserving political issue of Sudan for settlement within a definite and shortish period.

(Repeated to Khartum)

[J 1440/4/16]

No. 56.

Preliminary Meeting of the British Committee on April 29, 9.45 A.M.

THE following drafts were circulated to, but not actually considered by, the members of the committee at the meeting. Mr. Henderson made it clear that both drafts were very tentative, and he did not ask his colleagues to take any decision on them:—

Suggested Additional Paragraph to Omnibus Note.

14 (a). The two Governments agree, if either of them should so request, to enter into friendly discussions within one year from the coming into force of the treaty with regard to any question arising out of the application of article 13, which relates to the Sudan, or of any other article of the treaty with respect to which any difficulty may have arisen.

*Exchange of Notes in regard to the Reform of the Capitulations.**British Note.*

Your Excellency,

With regard to the second paragraph of article of the treaty signed to-day, His Majesty's Government in the United Kingdom recognise that the conditions in which the Capitulations are at present applied as regards the power of the Egyptian Government to legislate for or to impose taxation on foreigners are no longer consistent with modern conditions.

They are prepared to agree that in future any assent which is necessary before Egyptian legislation, including fiscal legislation, is applied to foreigners shall be given by the General Assembly of the Mixed Tribunals, except in the case of legislation relating to the constitution or jurisdiction of the Mixed Tribunals themselves, which should not come into force until it has been approved by the Powers. The competence of the General Assembly of the Mixed Tribunals should consist in satisfying itself that the legislation in question is not inconsistent with the principles generally adopted in modern legislation, which is applicable to foreigners, and, with particular relation to legislation of a fiscal character, that it does not inequitably discriminate against foreigners, including foreign companies.

The transfer to the Mixed Tribunals of the jurisdiction now exercised by the Consular Courts, which will, of course, be subject to the provisions of paragraph 7 of the Egyptian note of to-day's date, will necessitate the revision of the existing laws relating to the organisation and jurisdiction of the Mixed Tribunals, including the preparation and promulgation of a new code of criminal procedure. For these purposes His Majesty's Government in the United Kingdom would be prepared to accept as a basis the principles which resulted from the discussions which took place on this subject in 1920.

It may be difficult for some Powers to agree to the transfer to the Mixed Tribunals of all suits relating to the "statut personnel" of their nationals. Transfer in the case of these questions would be facultative. Jurisdiction in such matters should remain with the consular authorities unless an agreement is made between the Egyptian Government and the foreign Government concerned for its transfer to the Mixed Tribunals.

In the case of pardons or remissions of sentences imposed on foreigners, and also in connexion with the execution of capital sentences imposed on foreigners, it is understood that the Minister of Justice will consult the Procureur Général of the Mixed Tribunals before tendering his advice to the King.

There are certain matters as to which it will be necessary for agreement to be reached between the Egyptian Government and His Britannic Majesty's Government in the United Kingdom, but it is unnecessary to do more at the moment than mention these subjects.

The first is the definition of the word "foreigner" for the purposes of the proposed extension of the jurisdiction of the Mixed Tribunals.

The second is the increase in the personnel of the Mixed Tribunals which will be necessitated by the proposed extension of their jurisdiction, and, as part of this question, the new functions of the Procureur Général of the Mixed Tribunals and the staff which will be necessary to enable him to discharge those functions satisfactorily.

Egyptian Note.

Sir,

I have the honour to acknowledge the receipt of your note of to-day's date, in which you informed me of the general lines upon which His Majesty's Government in the United Kingdom would be prepared to support the efforts of the Egyptian Government to conclude arrangements with the Powers for the reform of the capitulatory régime.

I am happy to state that the Egyptian Government are in general agreement with His Majesty's Government in the United Kingdom as to the lines on which the reform of the capitulatory system should proceed.

Mr. Henderson said that it appeared that the story which had been published in the press about the non-arrival of the Egyptian courier was correct and that he had not arrived. The Egyptian delegation had telephoned to the Department this morning asking what they should do. They were due here at 10.30 and, in view of the possibility of no business being done, he doubted whether it was worth while asking them to come. He understood, however, that they intended to come at 10.30.

Lord Thomson asked for an explanation regarding the suggested additional paragraph to the omnibus note which had just been circulated.

Mr. Henderson explained that the committee was going to hear Nahas Pasha's statement, but he had reason to believe that the Egyptian delegation was going to ask for an alternative to the last paragraph of the printed draft (see record of proceedings of fourteenth meeting); he had, therefore, had this alternative draft prepared; it would be submitted to the committee, of course, before it was communicated to the Egyptian delegation. The note on the Capitulations had also been recast so as to make it follow as closely as possible the text which the Egyptian delegation had put forward.

Mr. Murray, at Mr. Henderson's request, explained to the committee that, in the revised draft exchange of notes regarding the reform of the Capitulations, the form of the Egyptian proposal (see record of proceedings of twelfth meeting with the Egyptian delegation) had been followed as much as possible, and, judging from the conversation which certain members of the Egyptian delegation had had with Mr. Campbell on the 16th April, there ought to be little in it to which the Egyptians could object; they might, however, have changed their minds in the meantime.

Mr. Henderson enquired whether the draft had been seen by General Charles.

Mr. Murray pointed out that it did not affect the War Office, since their position was safeguarded by the reference in the third paragraph to the provisions of paragraph 7 of the omnibus note relating to the privileges and immunities of the British forces in Egypt; the revised draft was shorter than the original note and gave nothing away.

Mr. Shaw did not think that the War Office were affected at all.

Mr. Henderson said that the main point was that nothing was given away; it was necessary to stick closely to his proposals of last year from the parliamentary point of view.

Lord Passfield pointed out that the phrase in paragraph 6 of the British note on the Capitulations as published in the White Paper, which the Egyptians had interpreted as applying generally, had been omitted (The sentence to which Lord Passfield alluded is "I anticipate agreement that the Mixed Tribunals should exercise jurisdiction in these matters in cases where British subjects are concerned.")

Mr. Henderson enquired whether there were any other points outstanding. The Egyptian delegation had already said that article 13 was agreed.

Mr. Murray said that the Egyptian delegation had had second thoughts about the omnibus note and did not regard themselves as committed to acceptance of the earlier paragraphs regarding the accommodation of the British forces.

Mr. Henderson said that at the meeting on the 16th April the Egyptian delegation had mentioned five or six points in the omnibus note which they wished to be modified; these points had been dealt with and he had thought that there were no further questions about that note.

Mr. Murray said that they might have had no more observations that evening, but yet they raised more points the following morning.

The Egyptian delegation were then announced.

P.S.—Before the arrival of the Egyptian delegation *Mr. Campbell* explained to *Lord Passfield*, and subsequently to *Mr. Henderson*, the point raised by *Mr. Hoare* in his telegram No. 194 of the 24th April regarding the wording of the paragraph in the omnibus note which related to the police. *Lord Passfield* agreed that it must be corrected; *Mr. Henderson* did not demur, but said that he did not quite understand it and others must therefore raise it.

[J 1402/4/16]

No. 57.

Record of Proceedings at the Fifteenth Meeting with the Egyptian Delegation, on April 29, 1930, at 10.30 A.M.

THE following were present :—

Egyptian Delegation.

Nahas Pasha.
Wacyf Ghali Pasha.
Osman Mobarrem Pasha.
Makram Elbeid Bey.
Mustapha Sadek Bey.
Kamel Selim Bey.

British Delegation.

Mr. Henderson.
Lord Passfield.
Mr. Shaw.
Lord Thomson.
Sir R. Vansittart.
Sir P. Loraine.
Mr. Dalton.
The High Commissioner for New Zealand.
Lieutenant-General Sir K. Wigram.
Major-General Charles.
Group-Captain Courtney.
Major R. G. Casey.
Mr. Clutterbuck.
Mr. Malkin.
Mr. Selby.
Mr. Murray.
Mr. Campbell.
Mr. Mack.

Mr. Henderson said that he had gathered a little information from the newspapers, but that he did not know how far it was accurate. He asked *Nahas Pasha* to be good enough to say what the present position was.

Nahas Pasha said that the position remained as it stood on the 17th April. As *Mr. Henderson* was aware, the Egyptian delegation had sent a courier to Egypt to consult their friends there. He had read in the London papers that the courier had left Egypt, but he had not arrived in London yesterday as expected. The Egyptian delegation was now awaiting his arrival.

Mr. Henderson enquired whether it was essential that the Egyptian delegation should await his arrival before continuing the conference. If it was essential to wait he would like to know how long the Egyptian delegation would like the conference to be adjourned.

Nahas Pasha suggested that, if the British delegation had no objection, the conference should adjourn for about a week, during which time the courier would be sure to arrive.

Mr. Henderson then asked whether Monday next, the 5th May, would be a convenient date to fix. He pointed out, however, that the adjournment involved some difficulty, since he must leave London on Thursday or Friday of next week in order to attend the meeting of the Council of the League of Nations at Geneva.

Nahas Pasha agreed to Monday, the 5th May.

Mr. Henderson enquired whether, in view of his departure for Geneva, the Egyptian delegation would be prepared for a meeting in the course of the present week in the event of the courier arriving, or of their having any information which would enable them to meet earlier.

Nahas Pasha replied that he would certainly let *Mr. Henderson* know when the courier arrived.

It was agreed that the next meeting should take place on Monday, the 5th May, at 10.30 A.M., unless the Egyptian courier arrived earlier.

[J 1413/4/16]

No. 58.

Mr. Hoare to Mr. A. Henderson.—(Received April 29.)

(No. 203. Secret.)

(Telegraphic.)

Cairo, April 29, 1930.

FOLLOWING from fairly good secret source :—

Abdelkader Hamza, editor of "Balagh," arrived on 27th April with following oral message which *Nahas* was unwilling to put on paper :—

Nahas was perplexed by His Majesty's Government's obstinacy about the Sudan. You threatened him with British annexation of the Sudan if present British offer were refused. (This has already been reported freely in the press.) *Nahas* was afraid to end negotiations definitely lest that might involve his resignation and loss of constitutional régime. He was quite unable to persuade you to accept Egyptian point of view.

Same informant reports that Ministers and other members of *Wafd*, after considering this information, telegraphed following message to *Nahas* :—

"A few are of the opinion to cut negotiations unless your request with regard to Sudan is approved. Majority are of the opinion to postpone question of the Sudan and sign treaty, considering it best not to sacrifice the big things that have been gained for the sake of the Sudan. A full report will follow giving opinion of each Minister. In any case do your best not to cut negotiations without a result.—HASSIB."

[J 1415/4/16]

No. 59.

Mr. Hoare to Mr. A. Henderson.—(Received April 29.)

(Nos. 204 and 205.)

(Telegraphic.)

Cairo, April 29, 1930.

YOUR telegram No. 154.

With reference to last paragraph of my telegram No. 198, *Nokrashi* informed Financial Adviser 28th April that *Wafd* had not sent the courier back to London but had telegraphed their views, and *Nahas* would be in a position to reopen discussion on 29th April.

(R) On the receipt of your telegram, Oriental Secretary, on my instructions, made a suitable telephonic enquiry of Acting Minister for Foreign Affairs, who said he could not give an answer immediately. Subsequently, Acting Minister

for Foreign Affairs, after presumably consulting his colleagues, telephoned that the courier should have left to-day, but could not get a place on the boat sailing from Port Said. He was therefore leaving 1st May by "Sitmar," and should arrive in London 6th May. (End of R.)

According to reports from secret sources, Nahas telegraphed 25th April ordering courier to stay in Cairo pending further instructions, and later acknowledged telegraphically receipt of telegram containing Cabinet's reply.

[J 1414/4/16]

No. 60.

Mr. A. Henderson to Mr. Hoare (Cairo).

(No. 154.)

(Telegraphic) R.

Foreign Office, April 29, 1930.

FOLLOWING from Sir R. Vansittart:—

"Private.

"On resumption of negotiations this morning, Egyptian delegation stated that courier, whose return they had expected last night, had not arrived. They therefore asked that negotiations should be adjourned until 5th May unless meanwhile arrival of courier should enable them to be resumed earlier.

"Imperial Airways state that no courier left Egypt by 'City of Glasgow' on 26th instant. Can you throw any light on this, as English press were under impression that he was on board, and numbers of Egyptians were awaiting his arrival at Croydon yesterday evening? Have you also any information as to when he is starting? The Secretary of State is due to leave for Geneva on Thursday or Friday next week, and is naturally anxious for any information you may have so as to enable him to make his plans."

[J 1436/4/16]

No. 61.

Mr. Hoare to Mr. A. Henderson.—(Received April 30.)

(No. 206.)

(Telegraphic.)

Cairo, April 30, 1930.

FOLLOWING for Sir R. Vansittart:—

"My telegram No. 204.

"It is obvious enough that delegation is playing for time, but it is not obvious why they should have found it necessary to advance mendacious pretext instead of saying that the telegram received from Ministers in Cairo necessitated further correspondence before they were ready to resume."

[J 1436/4/16]

No. 62.

Mr. Hoare to Mr. A. Henderson.—(Received April 30.)

(No. 207.)

(Telegraphic.) R.

Cairo, April 30, 1930.

FOLLOWING is continuation of my immediately preceding telegram:—

All maintenance of secrecy has been abandoned and "Ahram" has begun publication of detailed and fairly accurate account of day-by-day discussions. Probably there is a desire to see how public opinion reacts, and it is possible that Wafd will feel more secure *vis-à-vis* the King and political opponents once provincial councils (see my despatch No. 315) are actually at work in about ten days' time. Wave of optimism mentioned in my telegram No. 198 seems to be due to the impression that His Majesty's Government will agree to postponement of Sudan issue for a few years. Meanwhile there is unofficial and underground Liberal display against surrender over the Sudan.

[J 1514/4/16]

No. 63.

Record of Proceedings at the Sixteenth Meeting with the Egyptian Delegation on May 5, 1930, at 5 P.M.

THE following were present:—

Egyptian Delegation.

Nahas Pasha.
Wacyf Ghali Pasha.
Osman Moharrem Pasha.
Makram Ebeid Bey.
Mustapha Sadek Bey.
Kamel Selim Bey.

British Delegation.

Mr. Henderson.
Lord Passfield.
Lord Thomson.
Sir R. Vansittart.
Sir P. Loraine.
The High Commissioner for New Zealand.
Lieutenant-General Sir K. Wigram
Major-General Charles.
Group-Captain Courtney
Major R. G. Casey.
Mr. Clutterbuck.
Mr. Malkin.
Mr. Selby.
Mr. Murray.
Sir A. Willert.
Mr. Campbell.
Mr. Mack.

Mr. Henderson said that he understood that Nahas Pasha had received the advice of his Government, and the committee would be very pleased to hear what his Excellency had to say as to the present position.

Nahas Pasha said that the Egyptian delegation had received the detailed views of their friends and, after reading them and deciding to do their utmost and spare no effort to prevent the unhappy result of a break-down of negotiations, had decided to present two alternative solutions on the question of the Sudan. In order to waste no time, the Egyptian delegation had also drawn up a draft of the articles of the treaty and of the Egyptian note to be attached to it. With regard to the latter document, there were some points of difference to which the Egyptian delegation had already alluded at previous meetings. The order of the articles of the draft treaty had also been changed.

Nahas Pasha then presented these documents, which have been printed separately.* For convenience of reference, however, the Egyptian alternative drafts for the Sudan article are reproduced here:—

"Without prejudice to Egypt's rights and interests in the Sudan, the High Contracting Parties agree that the question of the Sudan shall be reserved for future negotiations to be conducted between them in the course of a period of one year from the ratification of the present treaty."

"Without prejudice to Egypt's rights and interests in the Sudan, the High Contracting Parties agree that the question of the Sudan shall be reserved for future negotiations. Meanwhile the *de facto* position obtaining in the Sudan before 1924 shall be restored."

Mr. Henderson suggested that the Egyptian delegation should retire to the Ambassadors' Waiting Room in order to give his committee time to consider these documents and to enable them to decide on the course to adopt.

The Egyptian delegation accordingly withdrew at 5.15 P.M.

* See No. 64.

The committee felt that neither of the alternative drafts for the Sudan article was acceptable. A hasty examination of the Egyptian draft treaty and note revealed that several changes had been made in both documents, and that the article which had been added to the treaty providing for friendly discussions within one year with regard to any question arising out of the application of any article of the treaty had been omitted.

The Egyptian delegation returned at Mr. Henderson's invitation at 5.45 P.M.

Mr. Henderson said that he and his colleagues had given careful consideration to the position which the Egyptian delegation had placed before them this afternoon. The two alternative drafts for the Sudan article which the Egyptian delegation had submitted and had proposed to substitute for an article which had already been agreed by both delegations were very definitely unacceptable to the British Committee. The committee had read through all the articles of the Egyptian draft treaty and had noticed that the alterations which had been made were surprisingly numerous; it was difficult to see the object of all these changes; the delegations had sat in conference and had gone through the clauses of the British proposals of last year, and he had understood that agreement had finally been reached. It was true that at the last meeting before the adjournment for Easter the Egyptian delegation had made an appeal on humanitarian grounds; in their desire to meet them the British Committee had gone beyond the instructions of their Government and had offered to insert a new article in the treaty which provided that "The High Contracting Parties agreed, if either of them should so request, to enter into friendly discussions within one year from the coming into force of the treaty with regard to any question arising out of the application of any article of the present treaty with respect to which any difficulty may have arisen." The text of that article had not been accepted by the Egyptian delegation, and he noticed that it had been entirely eliminated from the draft which the Egyptian delegation had just communicated. In the circumstances Mr. Henderson could only repeat that his committee could accept neither of the Egyptian drafts for the agreed article 13. The British Committee had done their best to solve the problem of the relations between Great Britain and Egypt; they communicated to the Egyptian delegation before Easter a draft treaty which had been agreed on in essentials; that treaty settled definitely the problem of the future alliance between the two countries; he had made it clear last summer that the proposals which he made to the people of Egypt and published to the world were the extreme limit to which he could recommend His Majesty's Government to go, but, in spite of that, the British Committee had granted several concessions. And yet a hurried comparison of the draft treaty and note which the Egyptian delegation had communicated made it clear that the whole negotiations would have to be gone over again. Apart from the questions involved in the treaty and the note, he and his colleagues thought it best to make plain to the Egyptian delegation that the acceptance by them of either of the alternative drafts for the Sudan article would be beyond the mandate which they had received from His Majesty's Government, and beyond the proposals made to the Egyptian people and submitted to the British Parliament.

Nahas Pasha said that he was sorry and astonished to hear that the two alternative formulæ which he had suggested to replace the Sudan article were unacceptable to the committee. He had thought that, by presenting these two formulæ and by accepting the adjournment of the question of the Sudan to future negotiations, he had made a great advance. On the Egyptian side there was harm and prejudice to Egypt in such an adjournment. After he and his colleagues had done their best to save the negotiations by accepting an adjournment of the Sudan question, they were really sorry to hear that their solution, which was in fact prejudicial to Egypt but still a way out of the difficulty, was unacceptable to the British Committee. Mr. Henderson had referred to the concessions which he had made. The Egyptian delegation had noted these concessions with satisfaction, but they were confident that his fair spirit would recognise the concessions which had been made on the Egyptian side. With regard to the articles of the draft treaty, hardly any change had been made; all the Egyptian delegation had done was to rearrange the articles and to make very minor changes of wording, apart from the Sudan.

Mr. Henderson here interrupted to point out that the Egyptian draft contained an entirely new article (article 15) which provided that "any agreement or

declaration or other bilateral or unilateral acts which are in opposition to the provisions of the present treaty are null and devoid of effect."

Makram Ebeid (who had been translating Nahas Pasha's remarks) tried to pass this off by enquiring whether there was any objection to that article.

Mr. Henderson said that the point was that the delegations had sat in that room and negotiated a treaty. The British delegation had said that they could go no further. Yet the Egyptian delegation now wanted to raise all sorts of questions.

Nahas Pasha said that he would remind Mr. Henderson that he had talked over the subject-matter of that article with Mr. Henderson and Mr. Beckett, and had mentioned, when the question of the preamble was being discussed, that the Egyptian delegation required a new article in the sense of the article (15) which they had inserted. He considered this article as a natural and necessary consequence of the treaty, and had never thought that it would be considered an addition or innovation.

Mr. Henderson said that this article was a very big change. Mr. Beckett had given the Egyptian delegation no encouragement in his hearing that they could have any such article, and Mr. Henderson had certainly not done so himself.

Nahas Pasha said that he was sure that it was only necessary to remind Mr. Henderson that when the Egyptian delegation objected to a mention of the declaration of 1922 in the preamble they had said they wanted a general article in the treaty. The proof of this was that no mention was made in the final British draft preamble of the 1922 declaration although it had been mentioned in the first draft. With regard to the other articles, he thought that hardly any substantial change had been made. There were some points of difference in the note, but he thought that when the note was re-read it would be found that there was no departure from what had been agreed upon. He would like the differences between the drafts to be indicated. Nahas Pasha wished to emphasise that he and his colleagues were not lacking in a desire for a friendly agreement and he hoped that the British Committee would reconsider their decision.

Mr. Henderson said that he had only one point to make. Nahas Pasha had said that no changes had been made. Yet in the Egyptian draft of the Sudan article the only words of the agreed British draft which were left were the words which had been inserted at the suggestion of the Egyptian delegation.

Nahas Pasha said that he was sorry if he had not made his meaning clear. What he meant was that apart from the Sudan article there were no changes.

Mr. Henderson said that he was willing to sit and negotiate a treaty of alliance to solve the Egyptian problem, but it was useless to continue if the Egyptian delegation insisted on making every Egyptian problem dependent on the Sudan. The Egyptian delegation had said that they could not accept our Sudan article as it stood in the proposals of last year. The British Committee had accordingly inserted the words "Without prejudice to Egypt's rights and material interests." That was as far as they could go on the mandate they had received from the Cabinet and from His Majesty's Government. That was the position which had to be faced. He was anxious to settle the basis of an alliance between the two countries.

Nahas Pasha said that with regard to Mr. Henderson's statement that his committee could not go beyond their mandate, he could not understand how it would be beyond the mandate of the committee to say that the Sudan question was adjourned for future solution.

Mr. Henderson replied that he had given the reasons over and over again. He had published his proposals of last summer, and since then had gone far to meet the views of the Egyptian delegation. There came a time in all things when it was impossible to go any further. That time had been reached. He had tried to meet the Egyptian delegation's views by agreeing to insert the words "Without prejudice to Egypt's rights and material interests." It was most unfortunate that the Egyptian delegation could not accept that and leave it, as he had said more than once, to the working of the alliance to see what future modifications of the régime in the Sudan could be made. He had never departed from that position.

Nahas Pasha said that he would like to point out to Mr. Henderson and his committee that he had understood article 13 at every stage of the proceedings to mean

co-administration, partnership in administration. The Egyptian delegation had come to London with the conviction that this was the case. Since, however, His Majesty's Government could not see their way to exclude their own proposals, the Egyptian delegation asked for an adjournment of the Sudan question, since difficulty was experienced in applying the article at present.

Mr. Henderson said that *Nahas Pasha* must bear in mind that the question was not quite so easy as he had said. The article dealing with the question in his proposals of last year had been negotiated during the present conference, and words had been introduced to safeguard Egypt's rights. He now found that that article, as laid before the House of Commons and the country last summer, had been omitted, and that the only words which remained of the draft which had been agreed on the 16th April were the words which the Egyptian delegation had asked to be inserted. *Nahas Pasha* had said that he understood that the Sudan clause in his proposals implied co-administration. How had he understood? He had never given *Mr. Henderson* an opportunity for explaining the proposals. *Mr. Henderson* was aware of the answer which *Nahas Pasha* would give, but his Excellency knew full well that *Mr. Henderson* had done his best to obtain even privately from *Nahas Pasha* before he came to London a statement of his position. *Nahas Pasha* had said that it was in the interests of the treaty that he should say nothing before he came, and that it would be best to await his arrival in London. Look at the position in which that attitude has landed us now. If *Nahas Pasha* had wanted to negotiate on the position of the Sudan *vis-à-vis* Egypt, he should have apprised *Mr. Henderson*, but he did not do so, and he now asked for what it was quite beyond the power of the British Committee to give.

Nahas Pasha said that he was sorry that there appeared to be some misunderstanding. He had understood that the proposals meant something, and that there was therefore no reason to ask for explanations since he thought that the proposals would have been applied. He quoted Mohammed Mahmoud Pasha's Green Book in this connexion, and said that it had been stated in the British Parliament that this account was substantially true.

Mr. Henderson enquired who used the words "substantially true."

Makram Ebeid said that he had read it in the newspapers in Egypt. The Egyptian delegation had believed that the 1899 conventions would be applied, since otherwise clause 13 of the proposals meant nothing.

Mr. Henderson remarked that, as he had said already, the absence of any enquiry for information as to what was meant by the proposals had brought the negotiations to their present *impasse*. He had tried to show why the various drafts which the Egyptian delegation had submitted could not be accepted. The Egyptian delegation had gone so far as to delete all the words of clause 13 of the proposals except those which the British Parliament had not yet seen; and, after doing that, they came along with an entirely new article for the treaty. He could only say that they were making the position steadily worse, and instead of bringing agreement nearer were only driving it farther away.

Nahas Pasha said that it did not matter to the Egyptian delegation whether the words "Without prejudice to Egypt's rights and material interests" were added or not, since the main point was that the Egyptian alternatives provided for the adjournment, not the settlement, of the question of the Sudan.

Mr. Henderson pointed out that all that the British draft provided was that the Governor-General should continue to exercise, on the joint behalf of the High Contracting Parties, the powers conferred upon him by the 1899 conventions. The Egyptian delegation wanted to delete those words and leave the administration of the Sudan in the air. The British Committee could agree to nothing of the kind.

Nahas Pasha said that the Egyptian alternative made no reference to the Governor-General; the present régime would continue until negotiations took place.

Mr. Henderson said that the point was not so simple as that. The Egyptian delegation had removed the British draft article. He gave them credit for knowing what that meant. It was therefore better to shake hands and part friends. The British Committee could not agree to the removal of that article. They were willing to settle Anglo-Egyptian relations and leave the Sudan open for future negotiations. Perhaps the Egyptian delegation would like to retire and give the matter further

consideration. His advice to them would be to settle the Egyptian question and leave the Sudan to the future.

Nahas Pasha pointed out that that was exactly what the Egyptian delegation were proposing, namely, to leave the Sudan to the future.

Mr. Henderson said that it was true that they proposed to leave the Sudan to the future but in a way unacceptable to the British Committee. The way proposed by the British delegation was as published last summer and was the only way which would be approved by the British Parliament. That way had been rejected by *Nahas Pasha*.

Nahas Pasha asked whether it was meant that the Sudan question should be solved or adjourned.

Mr. Henderson said that a discussion on that point would only bring the negotiations back to the point at which they had started.

Nahas Pasha asked that the Egyptian point of view should be remembered and considered. That view was that if the Sudan question was to be solved now, then they were ready to consider its solution. But if it was not possible to apply the proposed British Sudan article now, then they asked that the question should be adjourned.

Mr. Henderson pointed out that the British article left the door open for a modification of the 1899 conventions. An amendment had been made to it in the sense desired by the Egyptian delegation. Yet they came back and asked for more. They asked for the deletion of everything except the words "Without prejudice to Egypt's rights and material interests." He asked whether the Egyptian delegation would put back the words they had deleted and leave the wording of the article as amended together with the additional article to the treaty providing for discussions within a year, which did not figure in the Egyptian draft, although it had been expressly put in in order to meet the Egyptian delegation; and yet the Egyptian delegation tried to persuade him and his colleagues that the position was the same.

Nahas Pasha said that he had suggested a sentence in the Sudan article providing for discussions on its application within one year. This had not been accepted by the British delegation, and a general article had been added.

Mr. Henderson said that the point was that this general article had been removed. He asked whether *Nahas Pasha* was willing now to settle that article, which the Egyptian delegation had agreed to up to the point of submitting it to their Government.

Makram Ebeid enquired what was the position about the notes.

Mr. Henderson replied that, as he had already said, his committee could not agree to the Egyptian drafts.

Makram Ebeid said that that was the difficulty.

Mr. Henderson then read the notes which the Egyptian delegation had submitted at the 12th meeting (see No. 32). These notes were what the Egyptian delegation had brought back to-day, although they had been told on the 16th April that the British Committee could not agree to them. His committee had tried to meet them by inserting in the redraft of the notes that "there shall be no discrimination in the Sudan between British subjects and Egyptian nationals in matters of commerce and emigration or the possession of property." They had also conceded a new article giving Egypt the opportunity of raising any question arising out of the application of any article of the treaty within a year. The only difficulty was that the Egyptian delegation wished this provision to be narrowed to the 1899 conventions, while the British delegation wished it to be widened to cover the whole treaty. The Egyptian delegation had now returned to the three definite attempts which they had previously made and which they had been told were unacceptable.

Nahas Pasha said that when clause 13 was first discussed the Egyptian delegation had begun by presenting a note on the assumption that this clause would be applied. When they found that His Majesty's Government did not accept that, they were prepared to agree to make a beginning by the restoration of the position in the Sudan previous to 1924. This had been refused. They had then asked for joint

and effective administration. They had now made a new proposal which was quite different from all their previous proposals, namely, that the whole question should be adjourned for a period. He repeated that this was an entirely new proposal, since their previous proposals had meant that the pre-1924 position would remain until a new agreement had been reached.

At this stage Mr. Dalton, who had been detained in the House of Commons, arrived.

Mr. Henderson said that Nahas Pasha had spoken of an adjournment. He would like to remind him of the opening words of the British article 13: "While reserving liberty to conclude new conventions in future modifying the conventions of 1899"; until these new conventions were concluded, the status of the Sudan should be that resulting from the 1899 conventions, from which the Governor-General derived his powers; the words which he had quoted implied further negotiations and, in addition, the British Committee, by the proposed new article which had been rejected, were willing to give Egypt the liberty to raise the question again in twelve months' time.

Nahas Pasha said that he and his colleagues had really made all possible concessions, and still hoped that the British Committee would find that they had gone very far in making concessions. Neither side would gain nor lose a right by the Egyptian proposal for adjournment of the question, and he strongly urged that the British Committee should agree.

Mr. Henderson said that there was no use in deceiving the Egyptian delegation. He must say emphatically that the British article 13 as amended could not be omitted.

Nahas Pasha enquired whether, if it remained, the British committee were ready to agree to enter into discussions now on its application.

Mr. Henderson said that it was useless to ask him to do that, since the Governor-General was in Khartum. Mr. Henderson was here to negotiate a treaty between Egypt and this country. He could not negotiate for the Sudan, but he and his colleagues could leave the door open for negotiations on the Sudan, and that they were prepared to do.

Nahas Pasha said that, if that was so, why was it not possible to agree to his proposal for adjournment.

Mr. Henderson said that Nahas Pasha must be under no illusion. Unless he agreed to the restoration of the British draft of article 13 no treaty was possible. That was the position.

Nahas Pasha said that he would give a final reply to-morrow.

It was agreed that the next meeting should take place at 10-30 A.M. on the 6th May.

(The meeting then adjourned.)

[J 1485/4/16]

No. 64.

Communicated by the Egyptian Delegation on May 5, 1930, 5 P.M.

Proposed Anglo-Egyptian Treaty.

HIS Majesty the King of Great Britain, Ireland and the British Dominions beyond the Seas, Emperor of India, and His Majesty the King of Egypt,

Being anxious to consolidate the friendship and the relations of good understanding between them and to co-operate in the execution of their international obligations in preserving the peace of the world,

And considering that these objects will best be achieved by the conclusion of a treaty of friendship and alliance, which in their common interest will provide for

effective co-operation in preserving peace and ensuring the defence of their respective territories, and shall govern their mutual relations in the future,

Have agreed to conclude a treaty for this purpose, and have appointed as their plenipotentiaries:—

His Majesty the King of Great Britain, Ireland, and the British Dominions beyond the Seas, Emperor of India:

for Great Britain and Northern Ireland:

His Majesty the King of Egypt:

who, having communicated their full powers, found in good and due form, have agreed as follows:—

ARTICLE 1.

The military occupation of Egypt by the forces of His Britannic Majesty is terminated.

ARTICLE 2.

As Egypt intends to apply for membership of the League of Nations, His Britannic Majesty recognises her right as a sovereign independent State to become a member of the League on complying with the provisions of the Covenant of the League

ARTICLE 3.

His Britannic Majesty recognises that the responsibility for the lives and property of foreigners in Egypt devolves exclusively upon the Egyptian Government, who will ensure the fulfilment of their obligations in this respect.

ARTICLE 4.

His Britannic Majesty recognises that the capitulatory régime now existing in Egypt is no longer in accordance with the spirit of the times and with the present state of Egypt.

Meanwhile, pending the abolition of this régime, His Britannic Majesty undertakes to use all his influence with the Powers possessing capitulatory rights with a view to helping Egypt to obtain the transfer to the Mixed Tribunals of the jurisdiction of the existing Consular Courts, and the application of Egyptian legislation to foreigners.

ARTICLE 5.

An alliance is established between the High Contracting Parties with a view to consolidating their friendship, their cordial understanding and their good relations.

ARTICLE 6.

Each of the High Contracting Parties undertakes not to adopt in foreign countries an attitude which is inconsistent with the alliance, or to conclude political treaties inconsistent with the provisions of the present treaty.

ARTICLE 7.

Should any dispute with a third State produce a situation which involves a risk of a rupture with that State, the High Contracting Parties will consult each other with a view to the settlement of the said dispute by peaceful means, in accordance with the provisions of the Covenant of the League of Nations and of any other international obligations which may be applicable to the case.

ARTICLE 8.

Should, notwithstanding the provisions of article 7 above, either of the High Contracting Parties become engaged in war, the other High Contracting Party will,

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subject always to the provisions of article 12 below, immediately come to his aid in the capacity of an ally. The aid of His Majesty the King of Egypt, in the event of war, or imminent menace of war, will consist in furnishing to His Britannic Majesty, on Egyptian territory, in accordance with the Egyptian system of administration and legislation, all the facilities and assistance in his power, including the use of his ports, aerodromes and means of communication. It will accordingly be for the Egyptian Government to take all the administrative and legislative measures necessary to render these facilities and assistance effective.

ARTICLE 9.

In view of the fact that the Suez Canal, while being an integral part of Egypt, is a universal means of communication as also an essential means of communication between the different parts of the British Empire, His Majesty the King of Egypt, until such time as the High Contracting Parties agree that the Egyptian army is in a position to ensure by its own resources the liberty and entire security of navigation of the Canal, authorises His Britannic Majesty to station near Ismailia, in the zone specified in the annexed note, such forces as do not exceed the number therein agreed upon, with a view to ensuring in co-operation with the Egyptian forces the defence of the Canal; for the same purpose the Royal Air Force depot will be transferred from Abukir to Port Fuad. The presence of these forces shall not constitute in any manner an occupation and will in no way prejudice the sovereign rights of Egypt.

It is understood that at the end of the period of twenty years specified in article 14 the question whether the presence of British forces is no longer necessary owing to the fact that the Egyptian army is in a position to ensure by its own resources the liberty and entire security of navigation on the Canal may, if there has been any difference between the High Contracting Parties, be submitted for settlement to the League of Nations.

ARTICLE 10.

His Britannic Majesty will be represented at the Court of His Majesty the King of Egypt and His Majesty the King of Egypt at the Court of St James by Ambassadors duly accredited.

ARTICLE 12.

Nothing in the present proposals is intended to or shall in any way prejudice the rights and obligations which devolve, or may devolve, upon either of the High Contracting Parties under the Covenant of the League of Nations or the Treaty for the Renunciation of War signed at Paris on the 27th August, 1928.

ARTICLE 13.

The High Contracting Parties agree that any difference on the subject of the application or the interpretation of the provisions of the present treaty which they are unable to settle by direct negotiations shall be dealt with in accordance with the provisions of the Covenant of the League of Nations.

ARTICLE 14.

At any time after the expiration of a period of twenty years from the coming into force of the Treaty, the High Contracting Parties will, at the request of either of them, enter into negotiations with a view to such revision by agreement between them of its terms as may be appropriate in the circumstances as they then exist. In case of disagreement the difference will be submitted to the League of Nations.

Nevertheless, at any time after the expiration of a period of ten years from the coming into force of the Treaty, negotiations may be entered into with the consent of both the High Contracting Parties with a view to such revision as aforesaid.

ARTICLE 15.

Any agreement or declaration, or other bilateral or unilateral acts, which are in opposition to the provisions of the present treaty, are null and devoid of effect.

ARTICLE 16.

The present Treaty is subject to ratifications. Ratifications shall be exchanged in Cairo as soon as possible. The Treaty shall come into force on the date of the exchange of ratifications and shall be duly registered in the League of Nations.

In faith whereof, &c.

Alternative Drafts for Article 11.

Without prejudice to Egypt's rights and interests in the Sudan, the High Contracting Parties agree that the question of the Sudan shall be reserved for future negotiations to be conducted between them in the course of a period of one year from the ratification of the present treaty.

Without prejudice to Egypt's rights and interests in the Sudan, the High Contracting Parties agree that the question of the Sudan shall be reserved for future negotiations. Meanwhile, the *de facto* position obtaining in the Sudan before 1924 shall be restored.

Egyptian Note.

Sir,

I wish to place on record the understandings which have been reached between us in regard to various important matters arising out of or in connexion with the Treaty which we have signed to-day.

In regard to matters of a military character we are agreed as follows:—

(1) British personnel shall be withdrawn from the Egyptian Army and the functions of the Inspector-General and his staff shall terminate.

(2) The Egyptian Government, desiring to perfect the training of the Egyptian Army, and intending, in the interests of the military alliance which has been established, that such foreign instructors as they may deem necessary shall be chosen from amongst British subjects only, will avail themselves of the advice of a British military mission for such time as they may deem necessary. His Majesty's Government in the United Kingdom will furnish the military mission in the conditions desired by the Egyptian Government, and will also undertake to receive and provide proper training in the United Kingdom for any personnel of the Egyptian forces which the Egyptian Government may desire to send for the purpose of being trained.

(3) Likewise, in the interests of the alliance, and in view of the possible necessity of active co-operation between the British and Egyptian forces, the armament of the Egyptian forces shall in general be similar to the type of armament used by British forces.

His Majesty's Government in the United Kingdom undertake to use their good offices to facilitate the supply of such armament from Great Britain whenever the Egyptian Government so desire.

(4) With reference to article 9 of the Treaty, it is agreed that the British land forces shall not exceed 8,000 men, while the Air Forces shall not exceed 3,000 men, of whom 1/7th are pilots and the rest are mechanics and workmen.

These forces shall be stationed in a zone extending from the Moaskar in the north-west of Ismailia to such area in the north and the west of the said Moaskar as will provide adequate accommodation and training grounds for the forces in

question, provided the whole zone shall not extend westwards beyond Mahsama Railway Station, and shall not be within reach of cultivated grounds

(5) As the present British Moaskar provides accommodation and training ground for 5,500 troops and for airmen, the Egyptian Government will, in return for such lands and buildings belonging to the British Army as will be handed over, when vacated, to the Egyptian Government, provide to the British Government the necessary accommodations for the remaining number of troops. Such accommodation shall be provided on the same lines as the existing accommodation at the Moaskar aforesaid.

(6) British forces in excess of the numbers fixed above will evacuate Egypt as soon as the present treaty is ratified.

With regard to the forces authorised to be stationed in the specified zone on the Canal, it is understood that as soon as adequate accommodation is provided for the forces now stationed in either of the two cities of Cairo and Alexandria and their suburbs, such forces will withdraw from that city and its suburbs. Forces in other parts of Egypt will withdraw, each in turn, as soon as accommodation in the specified zone is provided for them respectively.

Likewise, air forces shall be withdrawn as soon as adequate accommodation is provided for them.

(7) The Egyptian Government will accord facilities at Port Said and Suez for the landing and storage of British military material and supplies, and will accord reasonable means of communication between these ports and the zone where the British troops are stationed.

[Paragraph 8 left blank.]

(9) Unless the two Governments agree to the contrary, the Egyptian Government will prohibit the passage of aircraft over the territories situated on either side of the Suez Canal and within 20 kilometres of it. This prohibition will not, however, apply to the forces of the two Governments or to services maintained by genuinely British or Egyptian organisations, operating under the authority of the Egyptian Government.

(10) The Egyptian and British Governments will give reciprocal facilities in their respective aerodromes in the Canal zone to their military aircraft, personnel and stores on passage to and from the said aerodromes.

In regard to other matters :—

(11) The Egyptian Government intend to abolish forthwith the European Bureau of the Public Security Department, but will retain, for five years from the coming into force of the Treaty, a certain European element in their city police which will remain for the same period under the command of British officers.

With a view to facilitating the gradual substitution of Egyptian officials for the said European element and thereby securing the harmonious working of the police organisation, the Egyptian Government propose to dispense annually with the services of one-fifth of the number of European police officials. The Egyptian Government intend, however, to employ for the whole period British Police Commandants at the head of such European element.

(12) The Egyptian Government intend to dispense with the services of the Financial and Judicial Advisers at the end of the present financial year.

(13) As under article 10 of the present Treaty Great Britain will be the first country to be represented by an Ambassador in Egypt, British Ambassadors will, during the period of the present Treaty, be considered senior to the diplomatic representatives accredited to the Court of His Majesty the King of Egypt.

(14) It is recognised by the High Contracting Parties that there is no ground to provide for the question of minorities in Egypt, considering that, as Egyptians, any question relating to them is the exclusive concern of the Egyptian Government.

(15) As Great Britain recognises that the capitulatory régime now existing in Egypt is no longer in accordance with the spirit of the times and with the present state of Egypt, accordingly, the conditions in which the Capitulations are at present applied as regards the power of the Egyptian Government to legislate for or to impose taxation on foreigners are no longer consistent with modern conditions.

Great Britain is thus prepared to agree that, in future, any assent which is necessary before Egyptian legislation, including fiscal legislation, is applied to foreigners shall be given by the General Assembly of the Mixed Tribunals, except in the case of legislation relating to the constitution or jurisdiction of the Mixed

Tribunals themselves, which should not come into force until it has been approved by the Powers. The competence of the General Assembly of the Mixed Tribunals should consist in satisfying itself that the legislation in question is not inconsistent with the principles generally adopted in modern legislation which is applicable to foreigners, and with particular relation to legislation of a fiscal character, that it does not unequally discriminate against foreigners, including foreign companies.

An extension of the Criminal Jurisdiction of the Mixed Tribunals will necessitate the preparation and promulgation of a new Code of Criminal Procedure. It is understood that this new Code should not diverge from the principles generally adopted in modern legislation which is applicable to foreigners.

Alternatively the principles may be mentioned in detail.

It may be difficult for some Powers to agree to the transfer to the Mixed Tribunals of all suits relating to the "status personnel" of their nationals. Transfer in the case of these questions would be facultative. Jurisdiction in such matters should remain with the consular authorities unless an agreement is made between the Egyptian Government and the foreign Government concerned, for its transfer to the Mixed Tribunals. The British Government agree that the Mixed Tribunals should exercise jurisdiction in these matters in cases where British subjects are concerned.

[Blank space left here.]

(16) Subject to the provisions of Article 11, it is agreed that in the meantime there shall be no discrimination in the Sudan between British subjects and Egyptian nationals in matters of immigration, property or commerce. Accordingly, there shall be no restriction upon their entrance or immigration into the Sudan, unless the person immigrating or entering into the Sudan is forbidden to do so by his respective Government.

Likewise, their right to own and possess property or to carry commerce in the Sudan shall be free, according to rules regulating matters of property and commerce in modern legislation.

The two Governments further agree that the question of the indebtedness of the Sudan to Egypt shall now be examined with a view to settlement on fair and equitable lines, and that for this purpose a representative of the Treasury of the United Kingdom and a representative of the Egyptian Ministry of Finance should discuss the question as soon as the treaty comes into force.

Moreover, subject to the provisions of article 11 aforesaid, the two Governments are agreed as follows upon the method by which international conventions are to be made applicable to the Sudan :—

The conventions which it will be desired to apply to the Sudan will naturally be conventions of a technical or humanitarian character.

In cases where such a convention is signed on behalf of both Egypt and the United Kingdom, and it is desired that the convention should be applied to the Sudan, the British and Egyptian delegates will at a convenient moment make a joint declaration, to be duly placed on record, to the effect that their signatures on behalf of Egypt and the United Kingdom respectively are intended, taken together, to cover the Sudan, and (in cases where the convention requires ratification) that, when the ratifications of both the King of Egypt and His Britannic Majesty have been deposited, the convention will become applicable to the Sudan in accordance with its terms. If no such declaration is made, the convention will not become applicable to the Sudan, unless by the method of accession, to which reference is made later.

In cases where such a declaration has been made, no special mention would be made of the Sudan in the instruments of ratification.

In some cases, where the convention provides for subsequent accession, and it may be convenient that the convention should be applied to the Sudan by this method, accession would be effected by a joint instrument signed on behalf of Egypt and the United Kingdom respectively by two persons duly appointed for the purpose. The method of depositing the instrument of accession would be the subject of agreement in each case between the two Governments. In such cases no question of ratification arises.

At international conferences where such conventions are negotiated, the Egyptian and British delegates would naturally keep in touch with a view to any action which they may agree to be desirable in the interests of the Sudan.

[J 1484/4/16]

No. 65.

List of Divergencies between Latest Egyptian Proposals (May 5) and Draft of April 16.

Preamble, paragraph 2, the word "perpetuate" is omitted.

Article 4. Capitulations.—The words "pending the abolition of this régime" are introduced: this implies the eventual disappearance of the Mixed Courts and it has already been made clear that it is unacceptable.

In the second paragraph the essential phrase "in conditions which will safeguard the legitimate interests of foreigners" is omitted.

Article 7.—The words "produce a situation which involves a risk of a rupture" are a departure from the text previously agreed in the drafting committee.

Article 9.—The words "Egyptian army" are substituted for "Egyptian forces."

A limit is imposed by reference to a note on the numbers of the troops which His Britannic Majesty is authorised to station in the Canal Zone.

The provision that "the British forces will have access to the desert areas on either side of the Canal for purposes of training and manœuvre" is omitted.

The words "if there is any difference" have been replaced by the words "if there has been any difference." The reason for this change is not apparent.

Article 10.—The words "in view of the friendship between the High Contracting Parties and of the alliance contemplated in the present proposals" are omitted.

Article 11. Sudan.—The following alternative texts are substituted for our Article 11:—

"Without prejudice to Egypt's rights and interests in the Sudan, the High Contracting Parties agree that the question of the Sudan shall be reserved for future negotiations to be conducted between them in the course of a period of one year from the ratification of the present treaty."

"Without prejudice to Egypt's rights and interests in the Sudan, the High Contracting Parties agree that the question of the Sudan shall be reserved for future negotiations. Meanwhile, the *de facto* position obtaining in the Sudan before 1924 shall be restored."

Article 14.—The words "will be dealt with in accordance with the provisions of the Covenant of the League of Nations" are replaced by "will be submitted to the League of Nations."

Article 15.—This is an additional article which is quite unacceptable to us.

Egyptian Note.

Paragraph 1.—The undertaking to receive a British military mission is confined to the time that the Egyptian Government may deem it necessary.

Paragraph 2.—The obligation not to send Egyptian officers to be trained abroad elsewhere than in Great Britain is dropped.

Paragraph 3.—The reference to equipment as well as armament is dropped.

Paragraph 4.—The number of British forces of all arms is definitely limited to 8,000 land forces and 3,000 air forces, of whom one-seventh are pilots and the rest mechanics and workmen.

The training grounds are limited to the area east of Mahsama railway station.

Paragraph 5.—The accommodation to be provided by the Egyptian Government will be "on the same lines as the existing accommodation at Moascar" and will be limited to that required by 2,500 troops and airmen.

Paragraph 6.—British forces over and above the numbers fixed above in paragraph 4 will evacuate Egypt on ratification of the treaty.

British forces will be withdrawn in detachments from Cairo and Alexandria as and when accommodation is ready for them.

There is nothing about amenities, an emergency fresh-water supply, or a convalescent camp on the Mediterranean coast.

Paragraph 7.—The provision for access to the zone where the British troops are stationed has been restricted.

Paragraph 8.—This has been left blank, presumably because the Egyptians are unwilling to accept the essential provision in our note regarding the continuance of the immunities and privileges enjoyed by the British forces.

Paragraph 10.—There is no provision under which British aircraft on their way to or from the Canal Zone will be given facilities in Egyptian air ports or for satisfying themselves that these air ports are properly maintained.

Paragraph 12.—The financial and judicial advisers are to go at the end of the present financial year, despite the agreement of the Egyptian delegation to retain the present occupants of those posts until the termination of their contracts in two and a half years' time.

The essential obligation not to replace British by foreign officials is omitted.

Paragraph 13. Ambassadors.—The wording is altered for no apparent reason.

Paragraph 14. Minorities.—This is a new clause based on an exchange of notes in the 1929 proposals.

Paragraph 15. Capitulations.—This is practically identical with the note which the Egyptian delegation handed in on the occasion of the twelfth meeting, and is in certain important particulars entirely unacceptable to us.

Paragraph 16. Sudan.—The reference to the possible return of an Egyptian battalion is omitted. The provision that there should be no discrimination in the Sudan between British subjects and Egyptian nationals in matters of emigration, property or commerce is interpreted to mean that there shall be no restriction upon the entrance or immigration of Egyptians approved by their Government into the Sudan. There is, further, to be no restriction upon the right of Egyptians to own property or engage in commerce in the Sudan.

Record of Proceedings at the Seventeenth Meeting with the Egyptian Delegation on May 6, 1930, at 10.30 A.M.

THE following were present :—

Egyptian Delegation.

Nahas Pasha.
Wacyf Ghali Pasha.
Osman Moharrem Pasha.
Makram Ebeid Bey.
Mustapha Sadek Bey.
Kamel Selim Bey.

British Delegation.

Mr. Henderson.
Mr. Shaw.
Lord Thomson.
Sir R. Vansittart.
Sir P. Loraine.
Mr. Dalton.
The High Commissioner for New Zealand.
Lieutenant-General Sir K. Wigram
Major-General Charles.
Group-Captain Courtney.
Major R. G. Casey.
Mr. Clutterbuck.
Mr. Malkin.
Mr. Selby.
Mr. Murray.
Sir A. Willert.
Mr. Campbell.
Mr. Mack.

When the Egyptian delegation arrived they communicated through Mr. Selby a request that Mr. Dalton should first have a private conversation with Makram Ebeid.

The committee, on Mr. Henderson's suggestion, authorised Mr. Dalton to hear what Makram Ebeid had to say, but to make it plain that he was not a member of the Negotiating Committee.

Mr. Dalton accordingly had a private conversation with Makram, from which it transpired that the Egyptian delegation were afraid that if they came to the meeting as a delegation and expressed their adherence to their previous views, there would be an immediate break. Mr. Dalton had advised them to come in and had told them that he had no power to negotiate.

Mr. Dalton was authorised to inform the Egyptian delegation that Mr. Henderson was prepared to talk to them privately if they wished. To this the Egyptian delegation agreed, and Mr. Henderson and Mr. Dalton retired at 10.45. They returned at 11.30.

Mr. Henderson said that the result of his conversation with the Egyptian delegation was that the funeral oration was not yet to be pronounced. The Egyptian delegation were still struggling to get some further concession; they were willing to accept the British draft article 13 with two amendments, provided the British delegation agreed to their putting in a note a statement of their position; they had made another suggestion, viz., the omission of the second sentence of the article, which he had refused out of hand. Their present suggestion was that the article should read as follows: "While reserving liberty to conclude new conventions in future modifying the conventions of 1899 and settling the question of the Sudan, the High Contracting Parties agree that, without prejudice to Egypt's rights and material interests, the status of the Sudan shall be that resulting from the said conventions. Accordingly, the Governor-General shall, *as one of the consequences*, continue to exercise, on the joint behalf of the High Contracting Parties, the powers conferred upon him by the said conventions." (The words in italics are the additions proposed by the Egyptian delegation.) The Egyptian delegation had pointed out

that the second sentence of the British draft named only one of the consequences of the 1899 conventions; there were others, and it was therefore necessary to insert the words "as one of the consequences."

The Egyptian proposal was discussed at considerable length, and it was agreed that, while there was no objection to their second point, it would be dangerous to accept, in the first paragraph, the inclusion of words which indicated that the whole question of the status of the Sudan was being left unsettled with a view to future negotiations. Consequently a counter-draft was prepared which Mr. Henderson was authorised by the committee to hand to the Egyptians for their consideration, provided that he made it clear that the draft would in any case require submission to and approval by the Cabinet, and that its acceptance, even by the committee, was subject to the note which the Egyptians proposed to communicate being found to be satisfactory. The committee also considered that the draft would have to be submitted to the Governor-General of the Sudan, but that the Egyptian delegation should not be informed that this would be done. The counter-draft is as follows :—

"While reserving liberty to conclude new conventions in future modifying the conventions of 1899 and settling any question relating to the Sudan which may arise out of the operation of the said conventions, the High Contracting Parties agree that, without prejudice to Egypt's rights and material interests, the status of the Sudan shall be that resulting from the said conventions. The Governor-General shall, as one of the consequences of the 1899 conventions, continue to exercise on the joint behalf of the High Contracting Parties the powers conferred upon him by the said conventions."

Mr. Henderson retired with Mr. Dalton to communicate this draft to the Egyptian delegation.

On his return Mr. Henderson informed the Committee that the Egyptian delegation objected to the words "settling any question relating to the Sudan which may arise out of the operation of the said conventions," and wished to substitute "settling the Sudan question." The article, as the Egyptians proposed it, would read as follows :—

"While reserving liberty to conclude new conventions in future modifying the conventions of 1899 and settling the Sudan question, the High Contracting Parties agree that, without prejudice to Egypt's rights and material interests, the status of the Sudan shall be that resulting from the said conventions. The Governor-General shall, as one of the consequences of the 1899 conventions, continue to exercise on the joint behalf of the High Contracting Parties the powers conferred upon him by the said conventions."

The Egyptian delegation had also handed to him the following very rough note which they proposed should be signed by Nahas Pasha and annexed to the treaty :—

"With reference to article 11, I would point out that we understand by this article that it does not in any way affect Egypt's right of sovereignty over the Sudan and the joint administration thereof by the two High Contracting Parties."

The committee felt that the Egyptian counter-draft and note combined were unacceptable. They decided that the Governor-General should be consulted immediately by telegraph in regard to the Egyptian draft of the article, in order that his views and those of his council might be available for consideration by the Cabinet to-morrow morning. In the meantime, an attempt would be made to recast the "rough note" in less objectionable form.

The Egyptian delegation had left the building after their conversation with Mr. Henderson, and proceedings were adjourned until 5 P.M. this afternoon.

[J 1534/4/16]

No. 67.

Record of Proceedings at the Eighteenth Meeting with the Egyptian Delegation on May 6, 1930, at 5 P.M.

THE following were present :—

Egyptian Delegation.

Nahas Pasha.
Wacyf Ghali Pasha.
Osman Moharrem Pasha.
Makram Ebeid Bey.
Mustapha Sadek Bey.
Kamel Selim Bey.

British Delegation.

Mr. Henderson.
Lord Passfield.
Mr. Shaw.
Lord Thomson.
Sir R. Vansittart.
Sir P. Loraine.
Mr. Dalton.
The High Commissioner for New Zealand.
Lieutenant-General Sir K. Wigram.
Major-General Charles.
Group-Captain Courtney.
Major R. G. Casey.
Mr. Clutterbuck.
Mr. Malkin.
Mr. Selby.
Mr. Murray.
Sir A. Willert.
Mr. Campbell.
Mr. Mack.

When the Egyptian delegation arrived at the Foreign Office they communicated a message through Mr. Selby that they were at Mr. Henderson's disposal and were prepared to meet the British Committee as a delegation or to see Mr. Henderson privately. They subsequently said that they would prefer to speak to Mr. Henderson alone. Mr. Henderson retired with Mr. Dalton and had a conversation with Nahas Pasha and Makram Ebeid, which lasted nearly two hours.

When Mr. Henderson returned he said that the Egyptian delegation were prepared to accept the Sudan clause as it had been agreed before Easter, namely : "While reserving liberty to conclude new conventions in future modifying the conventions of 1899, the High Contracting Parties agree that without prejudice to Egypt's rights and material interests the status of the Sudan shall be that resulting from the said conventions. Accordingly, the Governor-General shall continue to exercise on the joint behalf of the High Contracting Parties the powers conferred upon him by the said conventions," with the addition of a new sentence which was an adaptation of the new article of the treaty which the British Committee had proposed before Easter. The suggested addition was as follows : "The High Contracting Parties agree, if either of them should so request, to enter into friendly discussions within twelve months of the coming into force of the present treaty with regard to the application of the said conventions." Mr. Henderson invited the committee to consider this proposal.

The committee felt that in view of the fact that the proposed additional sentence only permitted the Egyptian Government to raise questions regarding the application of the 1899 conventions, if necessary before the League of Nations, and that they could not take to the League of Nations a question of the powers of the Governor-General, they could recommend its acceptance to the Cabinet and to the Governor-General of the Sudan.

Mr. Henderson said that the Egyptians had also argued at length on the proposed British wording of the paragraph in the note relating to discrimination in the Sudan. The wording was as follows : "The two Governments are agreed that there shall be no discrimination in the Sudan between British subjects and Egyptian nationals in matters of commerce and emigration or the possession of property." The Egyptian delegation had argued that since Great Britain did not want to populate the Sudan with British subjects this clause would give Egypt nothing in

reality. They were, however, prepared to accept the British wording (which had been approved by the Governor-General), but Mr. Henderson thought that they were going to insert in the general note their own interpretation of the word "discrimination." Mr. Henderson had only spoken to Nahas Pasha and Makram Bey, who were now consulting their colleagues. He proposed that the committee should approve the Sudan clause as amended, provided the remainder of the Egyptian delegation also approved it.

The committee agreed to Mr. Henderson's proposal.

Mr. Henderson informed the Egyptian delegation accordingly. The latter, however, stated that their acceptance of the Sudan clause was contingent on the acceptance by the British Committee of a note annexed to the treaty which would be signed by Nahas Pasha and which they had roughly drafted as follows :—

"With reference to article 11, I would point out that we understand by this article that it does not in any way affect Egypt's rights of sovereignty over the Sudan and the joint administration thereof by the two High Contracting Parties."

The committee felt that this note was completely unacceptable and the following alternative proposal was drafted :—

"With reference to article of the treaty signed to-day I wish to place on record the understanding of our Governments that this article does not in any way affect the joint sovereignty over the Sudan which is vested in His Majesty the King of Egypt and His Britannic Majesty, nor the administration of the country on their joint behalf by the Governor-General."

Mr. Henderson communicated this counter-draft to the Egyptian delegation, who declared at once that it was quite impossible for them to accept it; the draft, in fact, provoked the loudest protestations which had been made by the Egyptian delegation during the afternoon.

It was arranged that the next meeting with the Egyptian delegation should take place at 8 o'clock to-morrow morning in order that the question of the Sudan and any other outstanding points might be put to the Cabinet later that morning.

[J 1516/4/16]

No. 68.

Sir J. Maffey to Mr. A. Henderson.—(Received May 6)

(Telegraphic.)

Khartum, May 6, 1930

YOUR telegram, unnumbered, of 6th May.

Though we feel in the light of the attitude displayed by the Egyptian delegation that only really satisfactory outcome of the negotiations would have been establishment of the position that His Majesty's Government had accepted responsibility for full control of Sudan, we do not regard latest draft as comparing unfavourably with the corresponding article of 1929, and we see no objection to the alteration in the wording proposed.

(Repeated to Cairo, No. 79.)

[J 1515/4/16]

No. 69.

Mr. A. Henderson to Sir J. Maffey (Khartum).

(Telegraphic.)

Foreign Office, May 6, 1930.

ON resumption of negotiations after Egyptian delegation had consulted their colleagues in Cairo they began by putting forward entirely unacceptable proposals regarding the Sudan. This was made clear to them, and eventually they have come down to the proposal that the Sudan article should read :—

"While reserving liberty to conclude new conventions in future modifying the conventions of 1899 and settling the Sudan question, the high contracting parties agree that, without prejudice to Egypt's rights and material interests, the status of the Sudan shall be that resulting from the said conventions. The

Governor-General shall, as one of the consequences of the 1899 conventions, continue to exercise on the joint behalf of the high contracting parties the powers conferred upon him by the said conventions."

The Cabinet are meeting to-morrow morning at 10.30, and I am most anxious to be able to lay your views and those of your council before them.
(Repeated to Cairo, No. 158.)

[J 1515/4/16]

No. 70.

Mr. A. Henderson to Sir J. Maffey (Khartum).

(Telegraphic.)

Foreign Office, May 6, 1930.

THE Egyptian proposal on which I invited your comments this morning appeared so objectionable that I made great efforts to find some other way out of the difficulty. Egyptians have finally agreed to Sudan article in following form:—

"While reserving liberty to conclude new conventions in future modifying the conventions of 1899, the high contracting parties agree that, without prejudice to Egypt's rights and material interests, the status of the Sudan shall be that resulting from the said conventions. The Governor-General shall, as one of the consequences of the 1899 conventions, continue to exercise on the joint behalf of the high contracting parties the powers conferred upon him by the said conventions. The high contracting parties agree, if either of them should so request, to enter into friendly discussions within twelve months from the coming into force of the present treaty with regard to the application of the said conventions."

I am anxious to submit it to Cabinet to-morrow morning with your comments. I would point out that fate of whole settlement depends on the decision now to be taken.

(Repeated to Cairo, No. 160.)

[J 1551/4/16]

No. 71.

Record of Proceedings at the Nineteenth Meeting with the Egyptian Delegation on May 7, 1930, at 8 A.M.

THE following were present:—

Egyptian Delegation.

Nahas Pasha.
Wacyf Ghali Pasha.
Osman Moharrem Pasha.
Makram Ebeid Bey.
Mustapha Sadek Bey.
Kamel Selim Bey.

British Delegation.

Mr. Henderson.
Lord Passfield.
Mr. Shaw.
Lord Thomson.
Sir R. Vansittart.
Sir P. Loraine.
Mr. Dalton.
Lieutenant-General Sir K. Wigram.
Major-General Charles.
Group-Captain Courtney.
Major R. G. Casey.
Mr. Clutterbuck.
Mr. Malkin.
Mr. Selby.
Mr. Murray.
Sir A. Willert.
Mr. Campbell.
Mr. Mack.

(It will be convenient to state here the attitude adopted by the Governor-General of the Sudan towards the proposals mentioned in the records of proceedings at the

17th and 18th meetings. It will be remembered that the Egyptian delegation had proposed that the Sudan article should read:—

"While reserving liberty to conclude new conventions in future modifying the conventions of 1899 *and settling the Sudan question*, the High Contracting Parties agree that without prejudice to Egypt's rights and material interests the status of the Sudan shall be that resulting from the said conventions. The Governor-General shall *as one of the consequences of the 1899 conventions* continue to exercise on the joint behalf of the High Contracting Parties the powers conferred upon him by the said conventions."

Sir John Maffey and his council, though they felt in the light of the attitude displayed by the Egyptian delegation that the only really satisfactory outcome of the negotiations would have been the establishment of the position that His Majesty's Government had accepted the responsibility for full control of the Sudan, did not regard this draft as comparing unfavourably with the corresponding article of the 1929 proposals, and saw no objection to the alterations in the wording proposed by the Egyptian delegation. (The alterations are printed in italics.)

With regard to the second draft to which the Egyptian delegation agreed conditionally on the 6th May (see record of the 18th meeting), which read as follows:—

"While reserving liberty to conclude new conventions in future modifying the Conventions of 1899 the High Contracting Parties agree that without prejudice to Egypt's rights and material interests, the status of the Sudan shall be that resulting from the said conventions. The Governor-General shall as one of the consequences of the 1899 conventions continue to exercise on the joint behalf of the High Contracting Parties the powers conferred upon him by the said conventions. The High Contracting Parties agree, if either of them should so request, to enter into friendly discussions within twelve months from the coming into force of the present treaty with regard to the application of the said conventions."

the Governor-General and his council considered this formula infinitely more dangerous than the one previously proposed, since in the contingent promise to enter into friendly discussions within a year there was clearly implied an intention to agree to some modification of the present position and to stigmatise the latter as being a merely temporary arrangement which both parties have agreed should be upset in the near future; the result would inevitably be unsettlement and intrigue in the Sudan. Sir John Maffey and his council took the view that should discussions in spite of this have to take place, it was essential that no clause in the treaty with Egypt should be signed until discussions regarding the Sudan were finally completed and that the note referring to one Egyptian battalion should be cancelled pending the outcome of the discussions. Mr. Hoare expressed his entire agreement with these views.)

Mr. Henderson, accompanied by Mr. Dalton, had a conversation with Nahas Pasha and Makram Ebeid when they arrived.

When Mr. Henderson returned he said that the Egyptian delegates were preparing the wording of the clause which they wished to be inserted regarding non-discrimination. While they were considering it he suggested that the other members of the British Committee should go through the Egyptian draft treaty and note (see Confidential Print, "Egypt and Sudan," the 5th May, Section 1) in order to see whether any of the alterations which had been made by the Egyptian delegation were acceptable. Mr. Henderson then withdrew.

The Committee, with Lord Passfield in the chair, first considered the draft Egyptian note and decided to make the following recommendations:—

1. That with regard to paragraph 2 the wording should be changed in order to make it clear that the Egyptian Government could not cancel the proposed military mission at any time they pleased;

2. With regard to paragraph 3 that it would be necessary to insist on the insertion of the words "and equipment" after "armament" which had been omitted in the Egyptian draft, in order that there might be no doubt about aircraft being covered by this clause;

3. With regard to paragraph 4, firstly, that it was quite unnecessary to state the proportion of pilots of the air force to mechanics, but that, if it was necessary to state it, the figure should be one-eighth, not one-seventh; and, secondly, that it

would be necessary to insist on the insertion of the provision regarding hard desert for training purposes which had been included in the British draft;

4. With regard to paragraph 5, that an endeavour should be made to insert words such as "such forces as may be agreed from time to time" in order that reinforcements might be sent to the Canal Zone by agreement in case of emergency;

5. With regard to paragraph 6, that it was impossible to remove from Egypt the British forces in excess of the numbers fixed on ratification, but that it would be possible to say that they would be removed within six months of ratification, which would enable them to be moved normally during the trooping season in October or November next;

That the forces could not be moved to the Canal Zone in detachments, but that they would be moved in units, a general movement of units thus taking place in, say, three years, and that the War Office should prepare a redraft of this clause for presentation to the Egyptian delegation;

That it was desirable to delete the final sentence regarding the withdrawal of the Air Forces and to insert the words "military and air" before "forces" in the second sentence;

That the words "and amenities" should be inserted after the word "accommodation" in the second sentence;

6. With regard to paragraph 7, that this paragraph was not sufficiently definite, since it would lead to argument as to the meaning of the word "facilities," and that a draft should be prepared stating what the British Committee understood the word "facilities" to mean, namely, roads, railway sidings, telegraph and telephone communication, and that the words "and provide" should be added after "accord";

7. With regard to paragraph 8, which the Egyptian delegation had left blank, that the British draft paragraph 7 regarding immunities and privileges must be restored;

8. With regard to paragraph 10, that the Egyptian delegation should be pressed to accept the British draft paragraph 9.

Mr. Henderson and Mr. Dalton then returned.

Mr. Henderson said that he had been discussing with the Egyptian delegation the divergences between the Egyptian draft treaty and the British draft of the 16th April. He would take these divergences in order.

1. In paragraph 2 of the preamble the word "perpetuate" was omitted.

The Committee decided to accept the omission of this word.

2. With regard to article 4 (Capitulations), the Egyptian delegation had agreed to the position as stated in the British draft, but intended to try to have some words inserted in the note in order to show that the Mixed Tribunals should not last for ever.

3. With regard to article 7, the Egyptian delegation had inserted the words "produce a situation which involves a risk of a rupture." This was a departure from the text which had been previously agreed in the Drafting Committee, but since the words were used in the 1929 proposals, Mr. Henderson did not see how this addition could be resisted.

The Committee decided to accept the addition of these words.

4. With regard to article 9, (a) the Egyptian delegation had substituted the words "Egyptian army" for "Egyptian forces."

The Committee decided to accept this alteration.

(b) The Egyptian delegation had proposed in this Article a limit, by reference to a note on the numbers of the British troops in the Canal Zone.

The Committee felt that an attempt should be made to induce the Egyptian delegation to accept the addition of words which would enable more British troops to be sent from time to time by agreement.

(c) The Egyptian draft omitted the provision that the British forces would have access to the desert on either side of the Canal for purposes of training and manoeuvre.

The Committee decided that Mr. Shaw and Lord Thomson, with their respective experts, should state the case for the insertion of this provision to the Egyptian delegation.

5. With regard to article 10, the Egyptian draft omitted the words "in view of the friendship between the High Contracting Parties and of the alliance contemplated in the present treaty."

The Committee accepted the omission of these words.

6. The Sudan (*i.e.*, with the addition of a sentence providing for discussions within a year) article was accepted by the Egyptian delegation, subject to agreement being reached with regard to the notes proposed by the Egyptian delegation.

7. The Egyptian draft article 13 substituted the words "will be submitted to the League of Nations" for "will be dealt with in accordance with the provisions of the Covenant of the League of Nations."

The Committee felt that this alteration made no material difference, and decided to accept it.

8. Mr. Henderson had reserved the Egyptian Article 15 for further discussion with his colleagues:—

"Any agreement or declaration or other bilateral or unilateral acts which are now in opposition to the provisions of the present treaty are null and devoid of effect."

The Committee felt that the wording of this article was too general, and was unacceptable without a closer definition of what instruments the Egyptian delegation had in mind.

Mr. Henderson, accompanied by Mr. Malkin, retired to discuss this point with the Egyptian delegation, and after explaining the British point of view, undertook to prepare a revised draft of this article.

Mr. Henderson, Lord Passfield, Mr. Shaw and Lord Thomson left at 10-25 A.M. in order to attend a meeting of the Cabinet.

General Charles and Group-Captain Courtney proceeded to discuss with Makram Ebeid Bey and Dr. Ahmed Maher the clauses in the Treaty and notes relating to military and air matters.

Nahas Pasha left the Foreign Office.

Nahas Pasha returned shortly after 1 P.M. and was received by Mr. Henderson, who was accompanied by Mr. Dalton. Mr. Henderson informed him that the Cabinet had decided that they could not accept a provision for discussion of the Sudan question within a year. (This decision was in accordance with the Governor-General's recommendation.) Nahas Pasha said that, in that case, the only thing to do was to say good-bye and part friends.

Mr. Henderson was reporting this conversation to the British Committee when Makram Ebeid Bey communicated an enquiry through Mr. Selby, as to whether the meeting between the delegations which had been originally arranged for 3 P.M. was definitely fixed or not. Mr. Henderson authorised Mr. Selby to reply that the Egyptian delegation could come at 3 P.M. in order to say good-bye formally.

When the Egyptian delegation returned at 3 P.M., Mr. Henderson saw Nahas Pasha and Makram Ebeid Bey alone. Nahas Pasha made another attempt to secure agreement with regard to the Sudan article. His question was whether the British Committee were willing to amend the general article (article 15 of the British draft) which they had proposed and make it take the form of a note to the effect that friendly conversations would be opened within a year on the application of the 1899 conventions or of any other article of the treaty. This was really an amalgamation of the British article 15 and the sentence which the Egyptians had suggested should be included in the Sudan article which had been refused by the British Committee.

The Committee felt that there was a difference of some importance between the words "with regard to the application of the 1899 conventions" and "any question arising out of the application of the 1899 conventions," and that Nahas Pasha's suggestion did not really carry matters much further, since a note would have the same effect as an article of the treaty, and the Governor-General of the Sudan and

his Council took strong objection to a clause of this nature. The following draft additional paragraph to the general note was then prepared for consideration by the Egyptian delegation, who should be informed when the draft was put to them that the committee were prepared to submit it to the Cabinet on the morning of the 8th May provided the Egyptian delegation had meanwhile agreed to the terms of the complete treaty and notes to be presented with it. This procedure would enable the views of Sir John Maffey and his Council to be received in the course of the night. The draft was as follows:—

"The two Governments agree if either of them should so request to enter into friendly discussions within one year of the coming into force of the treaty with regard to any question arising out of the application of the 1899 conventions or any articles of the treaty with respect to which any difficulty may have arisen."

The Committee felt that it made a great difference if an agreed document could be submitted to the Cabinet with this draft.

Mr. Henderson accordingly had a conversation with Nahas Pasha, who undertook, if agreement were reached on the wording of this draft, to sit and complete the treaty and notes during the night. His Excellency objected, however, to the British draft; he insisted that if the words "or of any article of the treaty" were retained, the words "any question arising out of" should be omitted.

The Committee decided that if the Egyptian delegation were prepared to retain the words "any question arising out of" they were prepared to omit the last part of the clause, namely, "or of any article of the treaty with respect to which any difficulty may have arisen." The committee agreed that Mr. Henderson should try to induce the Egyptian delegation to accept this, and, if he failed, to inform them that he would be prepared to submit to the Cabinet the draft submitted by the Egyptian delegation that afternoon and the British counter-draft at the same time, provided he could submit a complete treaty with them.

Mr. Henderson informed Nahas Pasha in the sense of the above about 5 P.M., and Nahas Pasha said that he would consider the question with his colleagues.

Mr. Shaw, Lord Thomson, Major-General Charles and Group-Captain Courtney then resumed their discussions with the competent members of the Egyptian delegation on the military matters outstanding. Their discussions lasted for about two hours, and the Egyptian delegation left the Foreign Office about 8 P.M.

Proceedings were resumed at 9 P.M. when Mr. Shaw reported to the committee the result of the conversations on military matters. They were as follows:—

- (1) With regard to paragraph 1 of the Egyptian note, agreement already existed.
- (2) With regard to paragraph 2, no agreement was reached.
- (3) With regard to paragraph 3, the Egyptian delegation had agreed to the addition of aircraft as well as armament.
- (4) With regard to paragraph 4, it was agreed that instead of the words "3,000 men, of whom one-seventh are pilots and the rest are mechanics and workmen," the following should be substituted: "400 pilots and the necessary number of mechanics."

With regard to the training grounds, a provisional agreement had been reached to include in the redraft of paragraph 5 wording to the effect that "the Egyptian Government will, in consultation with His Majesty's Government, allot suitable areas in the desert for training and manoeuvres."

It was further agreed that the last six words of paragraph 4 should be altered to read: "encroach on cultivated grounds."

[The following redraft of paragraph 4 of the Egyptian note was subsequently prepared by the British military and air experts but was not submitted to the Egyptian delegation:—

"With reference to article 9 of the treaty, it is agreed that the British land forces shall not exceed 8,000 men, and that the British air forces shall not exceed 400 pilots together with the necessary number of mechanics.

"These forces, less those to be stationed in Port Fuad, shall be stationed in an area lying between Moascar (to the north-west of Ismailia) on the east and Mahsama Railway Station on the west and to the north of the Ismailia Canal. The extent of the area will be such as will provide adequate accommodation and training grounds for the forces in question provided that the whole area shall not extend westwards beyond Mahsama Railway Station and shall not encroach on cultivated lands."]

(5) As regards paragraph 5, the question of the possibility of increasing the British forces had not been raised with the Egyptians. It was pointed out to them that the paragraph as it stood was not only incorrect in point of fact, but contained certain points which were definitely objectionable to the British. The Egyptian delegation agreed to submit a redraft on the lines of article 6 of the British draft note, but objected to any inclusion of a proposal for a Joint Commission.

(6) With regard to paragraph 6, Mr. Shaw had undertaken that the British forces over and above the numbers fixed would evacuate Egypt within six months of the ratification of the treaty; the remainder would move to their new stations as soon as all facilities and amenities had been provided, but there must be joint agreement that these had, in fact, been provided. The Egyptian delegation had agreed to withdraw the last sentence on the understanding that the body of this paragraph made it clear that it referred both to military and to air forces.

[The following redraft of paragraph 6 of the Egyptian draft note was subsequently prepared by the British military and air experts but was not communicated to the Egyptian delegation:—

"British forces in excess of the numbers fixed above will evacuate Egypt within six months of the ratification of the present treaty.

"With regard to the military and air forces which are authorised to be stationed in the specified zone on the Canal, it is understood that as soon as adequate accommodation and amenities have been provided for the forces now stationed in either of the two cities of Cairo and Alexandria and their suburbs, such forces will withdraw from that city and its suburbs. Forces in other parts of Egypt will withdraw, each in turn, as soon as accommodation and amenities in the specified zone are provided for them respectively."]

(7) With regard to paragraph 7, the Egyptian delegation had agreed to let it stand as drafted on the explanation given that all we required was a small detachment in these ports to handle and guard the British army stores.

(8) With regard to paragraph 8, the Egyptian delegation intended to submit a clause for consideration with regard to the question of the privileges and immunities of the British forces.

(9) With regard to paragraph 10, nothing in the way of agreement had been reached. Mr. Shaw suggested that Lord Thomson should explain what had happened. Lord Thomson explained that the Egyptian draft omitted the essential provision under which British aircraft on their way to or from the Canal Zone would be given facilities in Egyptian air ports and the British air authorities given an opportunity of satisfying themselves that these air ports were properly maintained. It was essential that the British air forces should have the right to use certain aerodromes on the route between the Suez Canal and the Sudan. This the Egyptian delegation were not prepared to give. The aerodromes would be available for commercial aircraft as well. British air commitments in East Africa and as far as the Cape must be borne in mind. The Egyptian proposal would make it only possible for communication with the Sudan to take place by air with the permission of the Egyptian Government. The Egyptians had said that there would be no difficulty when the time came but this was not good enough. The Egyptian delegation had, however, insisted that it was a vital question for them. Lord Thomson considered that it was a vital question for us too. It would be possible to make concessions regarding visits; these might be carried out by civilians.

The Committee decided that a redraft of this paragraph should be prepared and that, if the drafts of paragraphs 5 and 6 which the Egyptian delegation were preparing were unsuitable, an attempt might be made to incorporate the provisions of the previous British drafts in different words.

The following counter-draft of the Egyptian article 15 was prepared :—

"The present treaty abrogates any existing agreements or other instruments whose continued existence is recognised by the High Contracting Parties to be inconsistent with its provisions. Should either High Contracting Party so request, a list of the agreements and instruments which are recognised as being thus abrogated shall be drawn up in agreement between them within (6) months of the coming into force of the present treaty."

Mr. Henderson communicated it to the Egyptian delegation at 9.15 P.M. for consideration.

The Egyptian delegation then communicated the following redraft of paragraph 5 of the note :—

5. "The Egyptian Government will provide for the British troops as above specified, less the number for which accommodation already exists in the above zone, lands and barracks, in return for such lands and buildings belonging to the British army as will be handed over, when vacated, to the Egyptian Government. Having regard to the character of the region in the said zone, steps will be taken by the Egyptian Government to furnish reasonable amenities by planting trees, gardens, &c., for the troops, who will also be provided with an adequate emergency water supply."

and the following draft of paragraph 8 of the note :—

"Subject to any modifications which the two Governments may agree to introduce in the future, in accordance with the altered conditions, and without prejudice to the terms of present agreements giving optional powers to either side the immunities and privileges in jurisdictional and fiscal matters including freedom from taxation, at present enjoyed by the British forces in Egypt will be accorded to all the armed forces of His Britannic Majesty, referred to above. It is understood that Egyptians committing any crime against British troops will continue to be tried by ordinary Egyptian courts."

[Both these paragraphs were recast by the British experts in the following form, but had not been communicated to the Egyptian delegation when the meeting terminated :—

"The Egyptian Government will provide for the British troops, 8,000 of the land forces and 3,000 of the air forces, less the number for which accommodation already exists in the above zone, land and buildings, suitable according to modern generally recognised standards and satisfactory to His Britannic Majesty's Government, in return for such lands and buildings belonging to the British forces as will be handed over, when vacated, to the Egyptian Government. Having regard to the character of the region in the said zone, steps will be taken by the Egyptian Government, in friendly agreement with His Britannic Majesty's Government, to furnish reasonable amenities by planting trees, gardens, &c., for the forces, who will also be provided with an adequately emergency water supply. The Egyptian Government will also provide a convalescent camp on the Mediterranean coast providing accommodation and amenities equal to those now at the disposal of the said forces.

"They will also, in consultation with His Majesty's Government, allot suitable areas in the desert for training and manœuvres, and will accord to the British Air Force access for training purposes to the desert areas lying to the east of a line through Mahsama Railway Station.

"The immunities and privileges in jurisdictional and fiscal matters, including freedom from taxation, at present enjoyed by the British forces in Egypt will be accorded to all the armed forces of His Britannic Majesty referred to above, subject to any modification which the two Governments may agree to introduce in the future, in accordance with the altered conditions, and without prejudice to the right of either party under particular existing agreements to give notice of their termination. It is understood that Egyptians committing any crime against British troops will continue to be tried by ordinary Egyptian courts."]

After some discussion between Mr. Henderson and the Egyptian delegation the following redraft of article 15 was agreed to :—

"The present treaty abrogates any existing agreements or other instruments whose continued existence is inconsistent with its provisions. Should either

High Contracting Party so request, a list of the agreements and instruments thus abrogated shall be drawn up in agreement between them within six months of the coming into force of the present treaty."

Mr. Henderson, Lord Passfield, Sir P. Loraine and Mr. Campbell then discussed the question of the Capitulations with Makram Ebeid and Ahmed Maher. The main point made by the Egyptians was that words should be inserted to show that the reform of the capitulatory régime was merely a provisional matter "pending the eventual abolition of the Capitulations." The British representatives resisted this claim, but after much discussion agreed that they would not object to a statement to that effect being added as a unilateral declaration at the end of the Egyptian note in reply to the British note. Various other points of minor importance were put forward by the Egyptian delegation which the British representatives found possible to meet by a mere rearrangement of the wording of the draft note which they had presented at the beginning of the discussion. The final draft of the Capitulations article and of the British and Egyptian notes as textually agreed between the two delegations will be found annexed to this record.

The only article in the treaty which had not been definitely agreed between the two delegations at this stage was article 9, and Mr. Shaw and Lord Thomson said that they were prepared to accept the Egyptian wording of this article provided the Egyptian delegation agreed to insert in the notes a provision for the possibility of increasing the numbers of the British forces. The note would include a provision that the British forces would only be increased by agreement and in cases of emergency. All the articles of the treaty except the Sudan article were thus agreed at 11.30 P.M., and only various outstanding questions in the notes remained for settlement.

The following redraft of paragraph 9 of the Egyptian note was prepared for submission to the Egyptian delegation :—

"It is agreed that His Majesty's Government in the United Kingdom will give all necessary facilities in their airports in the Canal Zone to Egyptian military aircraft, personnel and stores on passage to and from Egyptian aerodromes.

"Reciprocally that the Egyptian Government will on notification afford British military aircraft, personnel and stores on passage to or from stations outside Egypt landing facilities on the routes followed by Imperial Airways, Limited, in connexion with their Indian service via El Arish, their European service via Sollum, Mersa, Matruh and Alexandria, or the South African service via the Nile Valley to which the Egyptian Government agree in principle."

The following draft was prepared for insertion in the general note with a view to meeting as far as possible the Egyptian views with regard to the question of discrimination in the Sudan :—

"With reference to article 11, it is agreed that there shall be no discrimination in the Sudan between British subjects and Egyptian nationals in matters of immigration, property or commerce. Accordingly, British subjects and Egyptian nationals will be free to possess property and engage in trade and commerce in the Sudan on compliance with the local laws and regulations. The control by the Sudan Government in the interests of the Sudan of entrance and immigration into the Sudan shall not be exercised unreasonably to exclude British subjects or Egyptian nationals."

Mr. Henderson, accompanied by Mr. Dalton, then proceeded to discuss this draft with the Egyptian delegation. The latter, however, took strong objection to the word "unreasonably," and the following redraft was then prepared by the Egyptian delegation :—

"With reference to article 11, it is agreed that there shall be no discrimination in the Sudan between British subjects and Egyptian nationals in the enjoyment of their right to enter or immigrate into the Sudan or to hold property and to engage in trade and commerce therein."

This was redrafted by the British Committee as follows :—

"With reference to article 11, it is agreed that there shall be no discrimination in the Sudan between British subjects and Egyptian nationals in regard to

entry or immigration into the Sudan or the holding of property and engaging in trade and commerce therein";

and was communicated by Mr. Dalton to the Egyptian delegation. At this stage Sir John Maffey's reply to the two telegrams which had been addressed to him during the afternoon and evening was received. Sir J. Maffey and his council felt that the conclusion of a treaty leaving open to early discussion the immediate participation of Egypt in the administration of the Sudan would at once give rise to grave unsettlement in the Sudan and ultimately undermine the fabric of the administration.

After consultation with his colleagues, Mr. Henderson informed Nahas Pasha that the only possibility of securing a treaty was by his acceptance of article 13 in the following form, which had already been submitted to him:—

"While reserving liberty to conclude new conventions in future modifying the conventions of 1899 and settling the Sudan question, the High Contracting Parties agree that, without prejudice to Egypt's rights and material interests, the status of the Sudan shall be that resulting from the said conventions. The Governor-General shall, as one of the consequences of the 1899 conventions, continue to exercise on the joint behalf of the High Contracting Parties the powers conferred upon him by the said conventions,"

together with the following sentence with regard to non-discrimination:—

"The two Governments are agreed that there shall be no discrimination in the Sudan between British subjects and Egyptian nationals in matters of commerce and immigration or the possession of property,"

and the following sentence with regard to the return of the Egyptian battalion to the Sudan:—

"It has further been agreed that, if the treaty is worked in the same friendly spirit in which it has been negotiated, His Majesty's Government in the United Kingdom will be prepared to examine sympathetically a proposal for the return to the Sudan of an Egyptian battalion simultaneously with the withdrawal of the British forces from Cairo."

In the event of the Egyptian delegation refusing this, the committee gave Mr. Henderson latitude to arrange to break off the negotiations.

Mr. Henderson communicated this decision to the Egyptian delegation. On his return he said that they were greatly taken aback, and, on the plea that they were exhausted, asked for an adjournment and agreed to return at 11 A.M. Mr. Henderson made it clear to them that he was afraid that the Cabinet would only consider concluding a treaty on the above basis; he had added that, if the Egyptian delegation were prepared to negotiate a treaty on this basis, he was prepared to postpone his departure for Geneva until Saturday, but only on the basis of their acceptance.

Proceedings were adjourned at 3.20 A.M.

ANNEX.

Exchange of Notes in regard to the reform of the Capitulations.

BRITISH NOTE.

Your Excellency,

With regard to the second paragraph of article 4 of the treaty signed to-day His Majesty's Government in the United Kingdom recognise that the conditions in which the Capitulations are at present applied as regards the power of the Egyptian Government to legislate for or to impose taxation on foreigners are no longer consistent with modern conditions.

They are prepared to agree that in future any assent which is necessary before Egyptian legislation, including fiscal legislation, is applied to foreigners shall be given by the General Assembly of the Mixed Tribunals, except in the case of legislation relating to the constitution or jurisdiction of the Mixed Tribunals themselves, which should not come into force until it has been approved by

the Powers. The competence of the General Assembly of the Mixed Tribunals should consist in satisfying itself that the legislation in question is not inconsistent with the principles generally adopted in modern legislation, which is applicable to foreigners, and, with particular relation to legislation of a fiscal character, that it does not iniquitably discriminate against foreigners including foreign companies.

The transfer to the Mixed Tribunals of the jurisdiction now exercised by the Consular Courts, which will of course be subject to the provisions of paragraph 8 of the Egyptian note of to-day's date, will necessitate the revision of the existing laws relating to the organisation and jurisdiction of the Mixed Tribunals, including the preparation and promulgation of a new code of Criminal Procedure. For these purposes His Majesty's Government in the United Kingdom would be prepared to accept as a basis the principles which resulted from the discussions which took place on this subject in 1920.

It may be difficult for some Powers to agree to the transfer to the Mixed Tribunals of all suits relating to the "Statut Personnel" of their nationals. Transfer in the case of these questions would be facultative. Jurisdiction in such matters should remain with the consular authorities unless an agreement is made between the Egyptian Government and the foreign Government concerned for its transfer to the Mixed Tribunals.

There are certain matters as to which it will be necessary for agreement to be reached between the Egyptian Government and His Majesty's Government in the United Kingdom, but it is unnecessary to do more at the moment than mention these subjects.

The first is the definition of the word "foreigner" for the purposes of the proposed extension of the jurisdiction of the Mixed Tribunals.

The second is the increase in the personnel of the Mixed Tribunals and mixed parquet, which will be necessitated by the proposed extension of their jurisdiction.

The third is the procedure in the case of pardons or remissions of sentences imposed on foreigners, and also in connexion with the execution of capital sentences imposed on foreigners.

EGYPTIAN NOTE.

Sir,

I have the honour to acknowledge the receipt of your note of to-day's date in which you informed me of the general lines upon which His Majesty's Government in the United Kingdom would be prepared to support the efforts of the Egyptian Government to conclude arrangements with the Powers for the reform of the capitulatory régime.

I am happy to state that the Egyptian Government are in general agreement with His Majesty's Government in the United Kingdom as to the lines on which the reform of the capitulatory system should proceed.

I wish, however, to make it clear that the willingness of the Egyptian Government to conclude arrangements on these lines for the reform of the capitulatory régime is entirely without prejudice to their desire to secure the eventual abolition of that régime.

As regards the revision of the existing laws relating to the organisation and jurisdiction of the Mixed Tribunals and the preparation of a new Code of Criminal Procedure, the Egyptian Government recognises that they shall not diverge from the principles generally adopted by modern legislation which is applicable to foreigners.

[J 1589/4/16]

No. 72.

Record of Discussions on the Military Articles of the Draft Anglo-Egyptian Treaty of May 1930, held on May 7, 1930.

DURING the morning a discussion was held between Mr. Henderson, Mr. Shaw and Lord Thomson, on the one side, and Makram Ebeid and his technical adviser on the other. General Charles was present.

Mr. Henderson drew attention to the fact that in the text of the treaty communicated to the Egyptian delegation on the 17th April, article 9 contained the

[21319]

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words: "The British forces will have access to the desert areas on either side of the Canal for purposes of training and manoeuvre," whereas the draft communicated by the Egyptian delegation on the 5th May contained no such clause.

Mr. Henderson then invited General Charles to explain what was implied in the War Office request that extended desert areas should be available for the training of the British forces after they were removed to the Canal Zone.

After General Charles's explanation, *Makram Ebeid* pointed out that, in the opinion of his advisers in Egypt, the area which was outlined in the draft Egyptian note—communicated by the Egyptian delegation on the 5th May—was adequate and suitable not only for day-to-day training, but for extended manoeuvres.

General Charles indicated why this proposal was unacceptable on technical grounds, and explained why an area which was barely 20 miles long by little more than 20 miles in breadth, the greater portion of which was dead flat, would not meet military requirements.

Makram Ebeid retorted by observing that the British proposal involved what was tantamount to the military occupation of Egypt.

The Cabinet Ministers withdrew during the discussion, which was continued with the assistance of Mr. Dalton, Group-Captain Courtney having replaced Lord Thomson. As the result of prolonged discussion it was tentatively agreed to include in the note a paragraph which would read as follows:—

"The Egyptian Government will, in consultation with His Majesty's Government, allot suitable areas in the desert for training and manoeuvres."

Group-Captain Courtney then referred to the question of the areas that would be required for training of the air forces; he pointed out the essential difference between the requirement of the land and air forces in these respects.

Makram Ebeid pointed out that this matter was covered by paragraph 9 of the Egyptian draft of the note, under which the air forces could fly anywhere within 20 kilom. either side of the Suez Canal.

Group-Captain Courtney pointed out that this paragraph was intended to proclaim a prohibited area, which, however, would not be applicable to either the British or Egyptian air forces; it was certainly not intended that this prohibited area should comprise the only area available for training purposes, since it is obviously much too narrow for this purpose.

After some discussion *Makram Ebeid* agreed to submit to his delegation a proposal that British air forces should have access, for training purposes, to desert areas lying to the east of a line 20 kilom. west of the Canal.

Turning to the Egyptian note, the discrepancies between paragraph 2 and the corresponding paragraph in the English draft were then discussed. Two points of difference emerged:—

- (i) That, under the Egyptian draft, it was left to the Egyptian Government to decide how long they would retain the British military mission.
- (ii) The omission from this paragraph of a sentence which occurred in the British draft referring to an obligation not to send Egyptian officers to be trained abroad elsewhere than in Great Britain.

Mr. Dalton pointed out that under the British draft the Egyptian Government undertook to avail themselves of the advice of a British military mission "for such time as they may deem necessary."

Makram Ebeid explained that it was to be expected that the training of the Egyptian army would eventually render unnecessary the presence of a British mission and they wished to provide for this point.

After some discussion it was agreed to submit this point for settlement at a plenary conference.

Mr. Dalton then drew attention to the fact that the Egyptian draft note omitted the following sentence:—

"In the circumstances created by this treaty the Egyptian Government will naturally not desire to send any personnel of their armed forces to be trained abroad elsewhere than in the United Kingdom",

and he invited an explanation of this omission.

Makram Ebeid explained that the Egyptian Government wished to be free to send officers to any country in order to keep abreast of recent military developments, and he instanced the case where a foreign Power might have developed a new weapon in which the Egyptian army might be interested.

General Charles said that the intention of the sentence in question was to ensure that, in view of the alliance, the doctrine and training of the two armies should be kept on similar lines; if instruction were accepted in foreign countries, there would be a danger that foreign doctrines, which might be at variance with those held in the British army, would be inculcated into the Egyptian army and friction might thereby result.

After further discussion it was agreed to submit the point for settlement at a plenary conference.

As regards paragraph 3, it was agreed to accept the Egyptian omission of the word "equipment" and to insert wording which would ensure that the aircraft to be used by the Egyptian forces would be covered by the same conditions as the armament of these forces.

Mr. Dalton then referred to paragraph 4 of the Egyptian draft note and enquired for what reason the Egyptian delegation wished to provide that of the British air forces one-seventh should be pilots and the remainder mechanics and workmen.

Makram Ebeid said that he was merely quoting what Lord Thomson had said in the course of the plenary discussions.

Group-Captain Courtney pointed out the difficulty in fixing a definite proportion of this nature, in that it was hoped that future developments would enable a reduction to be made in the number of mechanics required to maintain aircraft.

Makram Ebeid then said that he would have no objection to fixing the maximum number of pilots without specifying the number of mechanics, and it was therefore agreed that this part of the paragraph should run: "The air forces shall not exceed 400 pilots together with the necessary number of mechanics."

(The sub-committee then adjourned.)

Discussions were resumed at about 5.30 P.M., the Secretaries of State for War and Air being present, assisted by General Charles and Group-Captain Courtney. On the Egyptian side, *Makram Ebeid* and his adviser were present.

The discussion as to areas for training and manoeuvres was resumed and it was agreed that, since the details of the areas required for extended training could only be settled on the spot, *Makram Ebeid* should prepare a draft on the lines of the paragraph settled in the previous discussions. With regard to the areas required for Air Force training, it was confirmed that access should be permitted to the desert areas lying to the east of the line 20 kilom. west of the Canal.

With regard to paragraph 5, the *Secretary of State for War* pointed out that the Egyptian assumption that there existed accommodation for 5,500 troops in Moascar was incorrect, and that there was accommodation for 1,800 men only.

Makram Ebeid expressed surprise, and averred that this statement had been made to him by Mr. Henderson. It was pointed out to him that there was nothing in the British draft of the note which could possibly give this impression.

The *Secretary of State for War* further pointed out that the type of accommodation suggested by the Egyptians, i.e., that existing at Moascar, was quite inadequate and could not be taken as an example of the accommodation in which we should be prepared to house our troops. He made it clear that we should accept nothing less than what was contained in paragraph 6 of the British draft of the note, omitting, however, the last sentence, which would be dealt with elsewhere.

Makram Ebeid agreed to submit an amended draft in the place of his existing paragraph 5.

The *Secretary of State's* suggestion that the note should contain a reference to the appointment of a joint commission to settle on the spot all the details connected with the provision of accommodation, &c., for the British troops who would be moved

to the Canal Zone was not accepted by Makram, who stated that the mention of the appointment of a commission in the treaty would be wholly unacceptable to his compatriots. He asked that the point should be deferred until he had another opportunity of consulting his delegation.

Mr. Shaw then referred to paragraph 6 of the draft Egyptian note providing that the British forces in excess of the numbers referred to in paragraph 4 of the note should be evacuated as soon as the present treaty is ratified. He explained that there were obvious practical difficulties in effecting this, since the trooping season, under the British organisation, was confined to certain definite months of the year; and *Lord Thomson* added that it was hardly reasonable to expect evacuation to be carried out by the British before any of the Egyptian obligations under the treaty had been carried out. After some discussion, *Makram Ebeid* agreed that the sentence in question should be amended so as to provide that excess numbers of British forces should evacuate Egypt within six months of the ratification of the treaty. *Makram Ebeid* further agreed to submit to his delegation certain editorial amendments to the remainder of this paragraph, viz., the inclusion of the words "military and air" before the word "forces" in the third line, the addition of the words "and amenities" after the word "accommodation" in the fourth line, and the excision of the last sentence of the paragraph.

With regard to paragraph 7, *Makram Ebeid* asked what was meant by the expression "facilities." It was pointed out that an embarkation organisation involved the presence of a small number of troops who could receive and dispose of stores arriving in, or being despatched from, the port. So far as the British army was concerned, we required a detachment of perhaps twenty men at Port Said who would handle and guard the British army stores while in transit from the port to the railway. *Makram* demurred to this, and stated that it was, in fact, a military occupation of Port Said. When it was pointed out to him that we could not entrust the handling and safeguarding of our stores to any other than a British military agency, he eventually agreed to let paragraph 7 stand.

Mr. Shaw said that he hoped that the Egyptian delegation realised what was involved in the term "reasonable means of communication." What we had in mind were the necessary road and rail communications, including the provision of sidings, &c.

Makram Ebeid said that we might rest assured that all such facilities would be provided.

Mr. Shaw then referred to the omission from the Egyptian draft note of any paragraph corresponding to paragraph 7 of the British draft note dealing with jurisdictional and fiscal immunities and privileges.

Makram Ebeid said that the Egyptian delegation wished to know exactly what was comprised in these immunities and privileges. He explained that there were some privileges which in the past had been accorded voluntarily to the British troops in Egypt, and the Egyptian Government naturally did not wish that these voluntary concessions—which could be withdrawn by the Egyptian Government at any time—now should take the form of a definite obligation.

Lord Thomson pointed out that the British draft included the words "subject to any modification which the two Governments may agree to introduce in the future," and he asked whether this was not sufficient safeguard for the Egyptian Government.

After some discussion it was suggested that the Egyptian delegation should prepare a draft on the lines of paragraph 7 of the British draft, but which would safeguard the Egyptian Government as to any optional powers involved in the present arrangements.

Makram Ebeid agreed to this suggestion, but stated that he would like to include a sentence to the effect that Egyptians committing any crime against British troops will continue to be tried by Egyptian courts. He realised that this involved nothing new, but wished to make the position quite clear to the Egyptian people.

Lord Thomson then referred to paragraph 10 of the Egyptian draft note, which corresponds to paragraph 9 of the British draft. He pointed out that the British Government required facilities for British aircraft to land at aerodromes on

Egyptian territory outside the Canal Zone when on passage to and from stations outside Egyptian territory, whereas the Egyptian draft only contemplated reciprocal facilities in the Canal Zone itself. He explained that it was essential to have a freedom of passage between the Canal Zone and the Sudan, as well as to countries further south and also to the east and west of the Canal Zone.

Makram Ebeid said that the Egyptian Government could not for a moment accept such a suggestion, which was certainly not made clear in the proposals of 1929. He pointed out that an arrangement of the kind now suggested would involve a virtual air occupation of Egypt and an infringement of her sovereignty. He must, therefore, insist that any flights which the British air force required to pass over Egyptian territory outside the Canal Zone must be made subject to a permit from the Egyptian Government. They had no intention whatever of withholding any such permit, and it would merely mean a telephone call through the British Embassy to the Egyptian Ministry of Communications and permission would at once be accorded.

Lord Thomson insisted that it would be impossible for the British Government to accept any such arrangement. He explained that the British air organisation necessitated frequent—in fact, almost daily—flights between Egypt and neighbouring countries, and that not only would the procedure suggested be onerous, but that it was a most unreasonable one to be adopted as between countries in alliance with each other.

Makram Ebeid maintained that the British proposals could not possibly be entertained by the Egyptian delegation, nor could they be justified before the Egyptian people.

After further discussion it was found impossible to reach agreement, and the point was reserved for consideration by a plenary conference.

Mr. Shaw reverted to paragraph 4 of the Egyptian draft note, which provides that the area for the accommodation and training of the forces should not be "within reach of cultivated grounds," and pointed out that that phrase was somewhat ambiguous.

After discussion *Makram Ebeid* agreed to submit to his delegation that the words should be amended to read "without encroaching on cultivated ground."

(The sub-committee then adjourned.)

[J 1517/4/16]

No. 73.

Sir J. Maffey to Mr. A. Henderson.—(Received May 7.)

(Telegraphic.)

Khartum, May 7, 1930

YOUR second telegram, unnumbered, of 6th May.

Judging from your telegram, unnumbered, just received, there was obviously some error in transmission of Egyptian proposal referred to, as despatched by you yesterday morning. Text of Egyptian proposal was substantially as follows:—

"While reserving liberty to conclude new conventions in future modifying conventions of 1899 and settling Sudan question, high contracting parties agree that, without prejudice to Egypt's rights and material interests, status of Sudan shall be that resulting from said conventions. Governor-General shall, as one of the consequences of 1899 conventions, continue to exercise on joint behalf of high contracting parties powers conferred upon him by said conventions."

It was on this text that our telegram, unnumbered, of yesterday was based.

Our views on your second telegram, unnumbered, of 6th May follow in my immediately following telegram.

(Repeated to Cairo, No. 80)

[J 1519/4/16]

No. 74.

Sir J. Maffey to Mr. A. Henderson.—(Received May 7.)

(Telegraphic.)

Khartum, May 7, 1930.

YOUR second telegram, unnumbered, of 6th May.

The new formula now proposed seems to us infinitely more dangerous, since in the contingent promise to enter into friendly discussions within the year there is clearly an implied intention to agree to some modification of present position and to stigmatise the latter as being merely a temporary arrangement which both parties have agreed should be upset in the near future. The result will inevitably be unsettlement and intrigue in Sudan.

Should discussions, in spite of this, have to take place, it is in our view essential to retain our power on an issue so vital as that of Sudan, and we would beg that, firstly, no clause in treaty with Egypt should be signed until discussions regarding Sudan are finally completed, and, secondly, that note referring to one Egyptian battalion should be cancelled pending outcome of discussions.

The latter provision would appear in any case to follow from latest wording suggested by you for article 13, but we wish to make point clear because in this crisis it is essential to retain every card in our hands.

(Repeated to Cairo, No. 81.)

[J 1520/4/16]

No. 75.

Mr. Hoare to Mr. A. Henderson.—(Received May 7.)

(No. 217.)

(Telegraphic.)

Cairo, May 7, 1930.

KHARTUM telegrams Nos. 80 and 81.

I entirely agree with his view that to undertake to engage in friendly discussions in the course of the year is tantamount to an undertaking to modify existing situation in the Sudan.

In these circumstances it would be infinitely better that modifications should be negotiated now and form part of the treaty.

If text proposed is adopted it will, in my opinion, be impossible to convince this or any other Egyptian Government when the Sudan question is reopened that His Majesty's Government have made their last concession.

(Repeated to Khartum.)

[J 1519/4/16]

No. 76.

Mr. A. Henderson to Sir J. Maffey (Khartum).

(No. 1.)

(Telegraphic.)

Foreign Office, May 7, 1930.

CABINET, in view of your two telegrams of yesterday, decided to accept formula which you prefer (my first telegram of yesterday), but Egyptians will not accept it without some provision for general discussion within a year.

It is now obvious that, unless we are willing to admit in some form a general discussion on the Sudan, we shall not get Egyptian agreement to any treaty and negotiations will have to be broken off, leaving us to face consequences of their failure, both in Egypt and the Sudan.

Egyptian claims now that we have secured their recognition of 1899 conventions are based on application of these conventions as involving at least a share in the administration.

It must be realised that one day these claims must be met and answered, either in direct discussion between Egyptians and ourselves, in the League or at the Permanent Court. We cannot establish beforehand our position towards such discussion without a similar course being taken by Egypt.

I fear your suggestion that treaty should be held up pending the completion of an immediate discussion of the Sudan question is not practicable. The point which

must be decided now is whether we are to persist in a refusal to express willingness to discuss with the Egyptians the application of the conventions of 1899, the recognition of which by them we have ourselves made a *sine qua non* condition of agreement.

Pending your reply I shall endeavour to reach agreement on all other points still outstanding with a view to presenting Cabinet with a complete treaty to-morrow morning together with your comments.

(Repeated to Cairo, No. 161.)

[J 1519/4/16]

No. 77.

Mr. A. Henderson to Sir J. Maffey (Khartum).

(No. 2.)

(Telegraphic.)

Foreign Office, May 7, 1930.

MY immediately preceding telegram.

At this afternoon's meeting Egyptians suggested, as way out of deadlock, that there should be some provision in general note equivalent to final sentence of Sudan article (my second telegram of yesterday), objections to which you pointed out in your telegram this morning. After lengthy discussion I agreed, on condition that complete agreement was reached during night on all other outstanding points, to submit this as an Egyptian proposal to Cabinet to-morrow morning. It will then be for Cabinet to consider the situation in the light of your reply to my immediately preceding telegram and of considerations you have already urged.

[J 1539/4/16]

No. 78.

Sir J. Maffey to Mr. A. Henderson.—(Received May 8.)

(No. 1.)

(Telegraphic.)

Khartum, May 7, 1930.

YOUR telegram No. 1.

While anxious, if it were possible, to introduce a solution of most difficult position that has arisen, we, for our part, feel it is our duty, in the permanent interests of this country, to maintain the position stated in our second telegram, unnumbered, of the 7th May, and restated with succinctness and force by Mr. Hoare in his telegram No. 217.

The conclusion of a treaty leaving open to immediate discussion the participation of Egypt in the administration of the Sudan would immediately give rise to grave unsettlement and ultimately undermine the fabric. Now that the object of Egypt in respect of the Sudan has been so clearly disclosed, viz., a share in the administration, we would earnestly ask His Majesty's Government to consider whether the course now proposed is not a historical and moral *non sequitur* which cannot be reconciled with the ultimate interests of this country and the definite trend of His Majesty's Government's policy in the past.

Since writing the above, we have received and noted your telegram No. 2. It does not modify our opinion expressed above.

(Repeated to Cairo, No. 83.)

[J 1569/4/16]

No. 79.

Draft Anglo-Egyptian Treaty as Agreed, apart from Article 11 (Sudan), by both Delegations during the Night May 7–May 8, subject to Agreement being reached on the Provisions of the Notes to be annexed to the Treaty.

HIS Majesty the King of Great Britain, Ireland and the British Dominions beyond the Seas, Emperor of India, and His Majesty the King of Egypt,

Being anxious to consolidate the friendship and the relations of good understanding between them and to co-operate in the execution of their international obligations in preserving the peace of the world,

And considering that these objects will best be achieved by the conclusion of a Treaty of friendship and alliance, which in their common interest will provide for effective co-operation in preserving peace and ensuring the defence of their respective territories, and shall govern their mutual relations in the future,

Have agreed to conclude a Treaty for this purpose, and have appointed as their plenipotentiaries :—

His Majesty the King of Great Britain, Ireland, and the British Dominions beyond the Seas, Emperor of India :

for Great Britain and Northern Ireland :

The Rt. Hon. Arthur Henderson, M.P.,
His Principal Secretary of State for Foreign Affairs;
The Rt. Hon. Lord Passfield,
His Secretary of State for Dominion Affairs and the Colonies;
The Rt. Hon. Thomas Shaw, M.P.,
His Secretary of State for War;
The Rt. Hon. Lord Thomson,
His Secretary of State for Air;

His Majesty the King of Egypt :

Mustapha El Nahas Pasha,
President of His Council of Ministers;
Wacyf Ghali Pasha,
His Minister for Foreign Affairs;
Osman Moharrem Pasha,
His Minister of Public Works;
William Makram Ebeid Bey,
His Minister of Finance;

who, having communicated their full powers, found in good and due form, have agreed as follows :—

ARTICLE 1.

The military occupation of Egypt by the forces of His Britannic Majesty is terminated.

ARTICLE 2.

As Egypt intends to apply for membership of the League of Nations, His Britannic Majesty recognises her right as a sovereign independent State to become a member of the League on complying with the provisions of the Covenant of the League.

ARTICLE 3.

His Britannic Majesty recognises that the responsibility for the lives and property of foreigners in Egypt devolves exclusively upon the Egyptian Government, who will ensure the fulfilment of their obligations in this respect.

ARTICLE 4.

His Britannic Majesty recognises that the capitulatory régime now existing in Egypt is no longer in accordance with the spirit of the times and with the present state of Egypt.

His Britannic Majesty accordingly undertakes to use all his influence with the Powers possessing capitulatory rights in Egypt to obtain, in conditions which will safeguard the legitimate interests of foreigners, the transfer to the Mixed Tribunals of the jurisdiction of the existing Consular Courts, and the application of Egyptian legislation to foreigners.

ARTICLE 5.

An alliance is established between the High Contracting Parties with a view to consolidating their friendship, their cordial understanding and their good relations.

ARTICLE 6.

Each of the High Contracting Parties undertakes not to adopt in foreign countries an attitude which is inconsistent with the alliance, or to conclude political treaties inconsistent with the provisions of the present Treaty.

ARTICLE 7.

Should any dispute with a third State produce a situation which involves a risk of a rupture with that State, the High Contracting Parties will consult each other with a view to the settlement of the said dispute by peaceful means, in accordance with the provisions of the Covenant of the League of Nations and of any other international obligations which may be applicable to the case.

ARTICLE 8.

Should, notwithstanding the provisions of article 7 above, either of the High Contracting Parties become engaged in war, the other High Contracting Party will, subject always to the provisions of article 12 below, immediately come to his aid in the capacity of an ally. The aid of His Majesty the King of Egypt, in the event of war, or imminent menace of war, will consist in furnishing to His Britannic Majesty, on Egyptian territory, in accordance with the Egyptian system of administration and legislation, all the facilities and assistance in his power, including the use of his ports, aerodromes and means of communication. It will accordingly be for the Egyptian Government to take all the administrative and legislative measures necessary to render these facilities and assistance effective.

ARTICLE 9.

In view of the fact that the Suez Canal, while being an integral part of Egypt, is a universal means of communication as also an essential means of communication between the different parts of the British Empire, His Majesty the King of Egypt, until such time as the High Contracting Parties agree that the Egyptian army is in a position to ensure by its own resources the liberty and entire security of navigation of the Canal, authorises His Britannic Majesty to station near Ismailia, in the zone specified in the annexed note, such forces as do not exceed the number therein agreed upon, with a view to ensuring in co-operation with the Egyptian forces the defence of the Canal; for the same purpose the Royal Air Force depot will be transferred from Abukir to Port Fuad. The presence of these forces shall not constitute in any manner an occupation and will in no way prejudice the sovereign rights of Egypt.

It is understood that at the end of the period of twenty years specified in article 14 the question whether the presence of British forces is no longer necessary owing to the fact that the Egyptian army is in a position to ensure by its own resources the liberty and entire security of navigation on the Canal may, if there has been any difference between the High Contracting Parties, be submitted for settlement to the League of Nations.

ARTICLE 10.

His Britannic Majesty will be represented at the Court of His Majesty the King of Egypt and His Majesty the King of Egypt at the Court of St. James's by Ambassadors duly accredited.

ARTICLE 11.

While reserving liberty to conclude new conventions in future modifying the Conventions of 1899 and settling the Sudan question, the High Contracting Parties agree that, without prejudice to Egypt's rights and material interests, the status of the Sudan shall be that resulting from the said Conventions. The Governor-General shall as one of the consequences of the 1899 Conventions continue to exercise on the joint behalf of the High Contracting Parties the powers conferred upon him by the said Conventions.

ARTICLE 12.

Nothing in the present Treaty is intended to or shall in any way prejudice the rights and obligations which devolve, or may devolve, upon either of the High Contracting Parties under the Covenant of the League of Nations or the Treaty for the Renunciation of War signed at Paris on the 27th August, 1928.

ARTICLE 13.

The High Contracting Parties agree that any difference on the subject of the application or the interpretation of the provisions of the present Treaty which they are unable to settle by direct negotiations shall be dealt with in accordance with the provisions of the Covenant of the League of Nations.

ARTICLE 14.

At any time after the expiration of a period of twenty years from the coming into force of the Treaty, the High Contracting Parties will, at the request of either of them, enter into negotiations with a view to such revision by agreement between them of its terms as may be appropriate in the circumstances as they then exist. In case of disagreement the difference will be submitted to the League of Nations.

Nevertheless, at any time after the expiration of a period of ten years from the coming into force of the Treaty, negotiations may be entered into with the consent of both the High Contracting Parties with a view to such revision as aforesaid.

ARTICLE 15.

The present Treaty abrogates any existing agreements or other instruments whose continued existence is inconsistent with its provisions. Should either High Contracting Party so request, a list of the agreements and instruments thus abrogated shall be drawn up in agreement between them within six months of the coming into force of the present Treaty.

ARTICLE 16.

The present Treaty is subject to ratification. Ratifications shall be exchanged in Cairo as soon as possible. The Treaty shall come into force on the date of the exchange of ratifications and shall be duly registered with the League of Nations.

In faith whereof, the above-named plenipotentiaries have signed the present Treaty and have affixed thereto their seals.

Done in duplicate in the English language at London, the 8th day of May, 1930.

[J 1552/4/16]

No. 80.

Record of Proceedings at the Twentieth Meeting with the Egyptian Delegation on May 8, 1930, at 11 A.M.

THE following were present :—

Egyptian Delegation.

Nahas Pasha.
Wacyf Ghali Pasha.
Osman Moharrem Pasha.
Makram Ebeid Bey.
Mustapha Sadek Bey.
Kamel Selim Bey.

British Delegation.

Mr. Henderson.
Lord Passfield.
Mr. Shaw.
Lord Thomson.
Sir R. Vansittart.
Sir P. Loraine.
Mr. Dalton.
The High Commissioner for New Zealand.
Lieutenant-General Sir K. Wigram.
Major-General Charles.
Group-Captain Courtney.
Major R. G. Casey.
Mr. Clutterbuck.
Mr. Malkin.
Mr. Selby.
Mr. Murray.
Sir A. Willert.
Mr. Campbell.
Mr. Mack.

The Cabinet had met at 10 A.M. and had approved the attitude adopted by the British Committee as defined at the end of the record of the 19th meeting. Mr. Henderson so informed Nahas Pasha and Makram Ebeid when they arrived. The latter said that they would talk the matter over with their colleagues and would then communicate their decision to Mr. Henderson. After deliberating for an hour, Nahas Pasha reiterated to Mr. Henderson the difficulties in Egypt with which his delegation were faced and said that they could not continue negotiations unless His Majesty's Government modified their position. They made the suggestion that they were willing to postpone discussion for a longer period than one year, but they would not accept the 1899 conventions without some provision for discussions.

Mr. Henderson informed the British Committee that he had told Nahas Pasha that the responsibility lay with him of throwing away the solid advantages which Egypt had gained by a settlement of the Egyptian problem for less substantial claims with regard to the Sudan.

The delegations met at about 12-20 in order to close the negotiations formally.

Mr. Henderson said that he was sure that Nahas Pasha and his colleagues must be extremely disappointed and that it was a source of great regret to all that the efforts which had been made on both sides during the last few weeks had failed to reach their desired end. They were compelled to recognise that they were unable to regulate the problem of the Sudan and to harmonise the differences of view on this question. The delegations had come together now merely to close the conference on Anglo-Egyptian relations, and he could only say, as he had already said to Nahas Pasha and Makram Ebeid, that they had solved the problem of Anglo-Egyptian relations in the sense that an agreed treaty had been settled, but they had failed to solve the closely connected problem of the Sudan. Speaking as far as he could in the name of his Government, he could only say that should the Egyptian delegation on their return to Egypt, and after discussion with their friends and their Cabinet, see any hope of the present treaty as far as it had gone becoming an accepted instrument, it was there for their acceptance, and Mr. Henderson and his colleagues were prepared to try to complete the note in order to make signature possible. As the treaty had been settled only the notes remained for settlement. Mr. Henderson repeated his own regrets and those of his colleagues and said that he felt sure that this expression of his regret was shared by a considerable percentage of the British

people. Both sides had done their best but had not succeeded. They could only part in the same spirit of good friendship that had characterised their relations since the arrival of the Egyptian delegation in London.

Nahas Pasha said that he and his colleagues would like to place on record their sincere regret at the failure of the mutual efforts which had been made to arrive at a successful issue. In addition to these efforts there had been a real desire on the part of both sides to overcome difficulties. Both had done their best, but no agreement had been reached with regard to the Sudan. He asked Mr. Henderson and his colleagues to recognise that the difficulties existing on this question were of essential importance to the Egyptian delegation, since the British proposals would appear to make Egypt lose her present rights in the Sudan. The Sudan was sacred to Egypt, and Egypt was sovereign there. No solution could, however, be found acceptable to both sides. He would like to say that if the failure was regretted by a great percentage of the British people, he was sure that it was regretted by the Egyptian people also. His desire was to establish the most friendly relations between Great Britain and Egypt, and, even if the present opportunity was lost, he still had hope for the future. Mr. Henderson had said that the Egyptian delegation would have time to reconsider their attitude on their return to Egypt. He hoped that the British Committee would also reconsider their views, and that this precious and historical opportunity would not be lost. He could only repeat his real and earnest regret at the failure of the negotiations, and he thought it his imperious and most pleasant duty to say that he felt that he had acquired the precious friendship of Mr. Henderson and his colleagues. He would like to express his thanks to them, to the technical advisers and to all who had taken part in the negotiations. He now said good-bye in the most heartfelt manner and he hoped that it was only au revoir. *Nahas Pasha* added that all his colleagues concurred unanimously in the sentiments which he had just expressed.

The delegations then said good-bye and the Egyptian delegation withdrew.

[J 1550/4/16]

No. 81.

Mr. Hoare to Mr. A. Henderson.—(Received May 8.)

(No. 219. Secret.)

(Telegraphic.)

Cairo, May 8, 1930.

SOURCE which is frequently well-informed reports that Cabinet received telegram yesterday saying that delegation's efforts have been crowned with success. This was shortly followed by another saying the British Cabinet had refused to accept sentence regarding discussion of the Sudan within a year. Thereupon Cabinet telegraphed this morning that, with the exception of Nokrashi, they were all agreed that negotiations should not be allowed to fail.

[J 1555/4/16]

No. 82.

Mr. A. Henderson to Mr. Hoare (Cairo).

(No. 163.)

(Telegraphic.) R.

Foreign Office, May 8, 1930.

CONFERENCE broke down this morning. On receipt of Governor-General's telegram and in view of completely intransigent Egyptian insistence on unrestrained right to emigrate to Sudan my colleagues and I decided to bring matters to a head. We consequently informed Egyptian delegation that conference could only be saved if they were prepared to accept the text of the Sudan article as given in my first telegram to Sir J. Maffey of the 6th May, and concurred in by him, and the sentences in the note regarding non-discrimination and the contingent return of an Egyptian battalion to the Sudan (which had also been approved by the Governor-General). If they would do this we were prepared to try to settle the remaining outstanding points in the note—much progress having been made in the articles of the draft treaty—in order to be able to present a complete draft to the Cabinet this morning. The Egyptian delegation were considerably taken aback by this announcement, and said they would prefer to consider it and give their definite reply at 11 o'clock this morning. The Cabinet met in the meantime and endorsed the attitude which my

colleagues and I have taken up, and I so informed the Egyptian delegation when they arrived. They regretted they were unable to accept our final proposal. A formal meeting between the two delegations then took place at which friendly speeches were made by me and by *Nahas Pasha*. I informed the House of Commons this afternoon that he regretted that the conference had failed owing to His Majesty's Government being unable to satisfy the demands of the Egyptian delegation with regard to the Sudan.

It is intended to lay papers regarding the course of the negotiations early next week.

Please repeat to Khartum.

[J 1571/4/16]

No. 83.

Sir J. Maffey to Mr. A. Henderson.—(Received May 10.)

(No. 2.)

(Telegraphic.)

Khartum, May 9, 1930

WE desire respectfully to express our appreciation of the consistent support we have received from His Majesty's Government.

There is a point to which I wish to draw His Majesty's Government's attention. Your telegram alludes to my concurrence in three things: firstly, text of Sudan article as transmitted in your first telegram of 6th May; secondly, sentence in note about non-discrimination; thirdly, sentence in note regarding Egyptian battalion.

May I restate formally my position in respect of each of these points in order to avoid any misunderstanding which might arise in case of future discussions with Egypt or in parliamentary debates?

As regards (1), my agreement to [group undecypherable] phraseology was carefully qualified (my telegrams of 6th May and 16th April refer).

As regards (2), my agreement was unqualified (my telegram, unnumbered, of 16th April refers).

As regards (3), my agreement in 1929 was strictly qualified in that I gave it as my opinion in the circumstances of that time that an Egyptian battalion might be allowed to return provided finality of settlement was thereby achieved, *i.e.*, that future claims by Egypt were thereby debarred. But I must point out that draft article 13 (which I had never seen until publication) opens by a negation of finality, and later articles (which I had also not seen) provide for the reopening of negotiations.

I did not agree to the return of an Egyptian battalion, without postulating finality. My standpoint was that of Lord Grey in the House of Lords debate of 11th December (Hansard, column 1165).

I must ask that no other interpretation be placed upon my concurrence.

[J 1613/4/16]

No. 84.

Memorandum by Mr. Mack.

WHEN the Secretary of State and Mr. Beckett were discussing the terms of the preamble with the Egyptian delegation on the 16th April, the latter took exception to any reference in it to the liquidation of the declaration of the 28th February, 1922, and stated that they wished to insert a clause in the treaty to the effect that all other instruments contrary to its terms were superseded. This suggestion was discussed by the British committee, and the general feeling of those present was strongly opposed to the acceptance of any such clause.

In the draft treaty communicated by the Egyptian delegation on the 5th May an article was inserted, although no such article had been included in the British draft which was presented to the Egyptian delegation on the 17th April, as follows:—

Article 15.—Any agreement or declaration, or other bilateral or unilateral acts, which are in opposition to the provisions of the present treaty are null and devoid of effect.

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The British committee felt that this article was altogether too general and that it was impossible to accept it without some definite statement from the Egyptian delegation of what instruments they had in mind. The following counter-draft was accordingly prepared by Mr. Malkin:—

Article 15.—The present treaty abrogates any existing agreements or other instruments whose continued existence is recognised by the High Contracting Parties to be inconsistent with its provisions. Should either High Contracting Party so request, a list of the agreements and instruments which are recognised as being thus abrogated shall be drawn up in agreement between them within (six) months of the coming into force of the present treaty.

Mr. Henderson and Mr. Malkin discussed this alternative with the Egyptian delegation, but the latter objected to the words "recognised by the High Contracting Parties to be." The following redraft, to which Mr. Malkin took no exception, was accordingly agreed upon:—

Article 15.—The present treaty abrogates any existing agreements or other instruments whose continued existence is inconsistent with its provisions. Should either High Contracting Party so request, a list of the agreements and instruments thus abrogated shall be drawn up in agreement between them within (six) months of the coming into force of the present treaty.

W. H. B. MACK.

May 10, 1930.

[J 1640/4/16]

No. 85.

*Memorandum on the Course of the Negotiations in regard to the Sudan,
March 31 to May 8, 1930.*

NOTE.—For convenience of present and future reference the various drafts of the Sudan article and note are designated respectively S. a. and S. n., and are numbered in chronological sequence.

ON the 28th March, in anticipation of the negotiations, the Governor-General was asked (telegram to Cairo No. 129) for his views in regard to any proposal which might be made by the Egyptian delegation to (1) omit any reference to the Sudan in the treaty, or, alternatively, (2) insert a clause continuing by agreement the *status quo* in the Sudan until such time, say, five years, as the question might be ripe for solution by further negotiations initiated by either party to the treaty.

2. On the 31st March the Governor-General replied (Khartum telegram No. 53 to Cairo) that (2) would be extremely undesirable in view of its unsettling effect upon Sudanese mentality, and that relegation of the Sudan question to an indefinite future would be less undesirable in degree only; that (1) must be ruled out of court if Great Britain could be forced to submit any aspect of the Sudan question to arbitration, and if, in such case, there would be any real risk of Egypt getting more given to her by arbitration than she has at present. He urged that the only course which might remain was to begin the negotiations with a reaffirmation of article 13 of the 1929 proposals, with or without the note concerning the battalion, but added that no lasting solution would be so achieved unless the interpretation of the words "resulting from" in that article was admitted by the Egyptians or definitely ruled by the legal advisers to be "which has in fact resulted from."

3. At the first meeting of the conference on the 31st March, Nahas Pasha stated that the Egyptians would accept to leave the question of the Sudan for future settlement by agreement provided that meanwhile the administration was carried on jointly and effectively.

4. On the 1st April, Mr. Campbell informed Makram Bey Ebeid, with the authority of the Secretary of State, that the Egyptian attitude, as stated by Nahas Pasha, in regard to the Sudan had caused serious uneasiness to the British delegation. Makram replied that England had first imposed on Egypt the unfair conventions of 1899, and had then proceeded to take advantage of her predominant position to whittle down Egyptian influence in the Sudan administration. The Sudan, he said, must one day return to its normal position as an ordinary Egyptian

province, but meanwhile the Egyptian delegation were merely claiming, with studied moderation, that Egypt's right under the 1899 conventions to share jointly and effectively in the administration should be recognised.

5. At the second meeting of the conference on the 3rd April the Secretary of State said he had received the following Egyptian formula in regard to the Sudan:—

S. a. 1—

"13. Pending the settlement of the Sudan question by future negotiations and with due reserve to all rights, the administration of the Sudan will be exercised in a joint and effective manner by the high contracting parties."

Mr. Henderson explained that his colleagues had not yet had time to study this draft, but that he felt he must, in fairness, say for himself that the Egyptian formula was so widely and seriously different from the 1929 proposals as to make it difficult for the British delegation to deal with and impossible to carry through Parliament. Nahas Pasha replied that the formula merely asked for a joint and effective share in the administration, and was therefore entirely consistent with the 1929 proposal to stand on the 1899 conventions. The discussion was then adjourned.

6. On the 4th April the Secretary of State informed the British delegation that he had had a long conversation with Nahas Pasha the previous evening, in the course of which the latter maintained his insistence on Egypt's share in the administration of the Sudan, while objecting to any specific reference being made in the treaty to the 1899 conventions.

7. On the 10th April the Secretary of State informed the British delegation that he had had to intimate the previous day to the Egyptian delegation the nature of the answer which he proposed to give to a parliamentary question about the Sudan, and said that that intimation had been a most alarming one to the Egyptians. He added that the answers which he had subsequently given to the questions in Parliament were to the effect that there was no intention of departing from the principle laid down in article 13 of his 1929 proposals, and that no suggestion to leave the question of the Sudan open to examination at some future time had as yet been considered at the conference.

8. On the 14th April the Secretary of State informed the British delegation that he had had two further meetings with Nahas Pasha, as a result of which the following redraft of article 13 of the 1929 proposals had to-day been submitted by the Egyptian delegation:—

S. a. 2—

"While reserving liberty to conclude by future negotiations an agreement modifying the 1899 conventions and settling the Sudan question, and without prejudice to Egypt's right of sovereignty over the Sudan, the high contracting parties agree that the status of the Sudan shall be that resulting from the said conventions. Accordingly the administration of the Sudan shall be exercised by the high contracting parties in a joint and effective manner, and the Governor-General shall exercise on the joint behalf of the high contracting parties the powers conferred upon him by the said conventions."

The British delegation considered the assertion in this draft of Egyptian sovereignty over the Sudan and the claim to joint administration obviously unacceptable, and at the subsequent meeting of the conference that afternoon Mr. Henderson communicated to Nahas Pasha the following alternative draft:—

S. a. 3—

"While reserving liberty to conclude new conventions in future modifying the conventions of 1899, the high contracting parties agree that, without prejudice to Egypt's rights and material interests, the status of the Sudan shall be that resulting from the said conventions. Accordingly the Governor-General shall continue to exercise on the joint behalf of the high contracting parties the powers conferred upon him by the said conventions."

The Egyptian delegation announced, through Mr. Henderson, their readiness to accept this provided a note was annexed to the treaty to the following effect:—

S. n. 1—

"By application of article 13 it is understood that Egypt's right of sovereignty over the Sudan remains intact, and that the administration of the

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Sudan will be exercised by the high contracting parties in a joint and effective manner. Accordingly an Egyptian Deputy Governor will be appointed, and also Egyptian officials to co-operate with the British officials in the administration of the Sudan. Egyptian troops will return to the Sudan after the ratification of the treaty. There must be no restrictions upon Egyptians as to emigration, property and commerce."

After discussion the Egyptian delegation were informed, in full conference, that their note was wholly unacceptable to the British delegation, but would be submitted to the consideration of the Cabinet that morning (the 15th April).

9. On the 15th April the Governor-General was informed (telegram to Cairo No. 145) that the Sudan was the only major point outstanding, and that the Egyptians had been induced to accept article 13 of the 1929 proposals with the addition of a face-saving phrase (S. a. 3), but had insisted on supplementing it with a note (S. n. 1), which had been considered and categorically refused by the Cabinet, who had, however, agreed, subject to the views of the Governor-General, to offer the following alternative note (of which the text was communicated in an immediately following telegram):—

S. n. 2—

"It is desirable to place on record our common understanding as to the interpretation and application of article 13 of the treaty signed to-day. We have agreed that, in recognition of the share of Egypt in the working and development of the system of administration and legislation for the Sudan created by the agreement of 1899, and without prejudice to the conjoint sovereignty of the high contracting powers over the territory, the Governor-General, in whom the supreme military and civil command in the Sudan is vested, shall be recommended in the exercise of the said powers, to select and appoint a certain number of Egyptians possessing the necessary qualifications to fill suitable vacancies in administrative posts in the Sudan as and when they occur.

"We have also agreed that there shall be no discrimination in the Sudan between British subjects and Egyptian nationals in matters of commerce and emigration or the possession of property.

"It has further been agreed that, if the treaty is worked in the same friendly spirit in which it has been negotiated, His Britannic Majesty's Government will be prepared to examine sympathetically a proposal for the return to the Sudan of an Egyptian battalion simultaneously with the withdrawal of the British forces from Cairo."

The Governor-General was asked, in view of the importance which he was known to attach, in the permanent interests of the Sudan, to the conclusion of an Anglo-Egyptian agreement, to assist in concluding an agreement by accepting this note or suggesting some helpful alternative.

10. At the tenth meeting of the conference on the 15th April the Secretary of State informed the Egyptian delegation that their note (S. n. 1) was unacceptable to the Cabinet, who considered that article 13 as amended (S. a. 3) had gone far to meet Egyptian wishes. Mr. Henderson added that, nevertheless, the British delegation were prepared to attempt a further redraft (S. n. 2) of the Sudan note. Nahas Pasha replied that he regretted the Egyptian formulæ in regard to the Sudan were regarded as containing anything new when all they claimed was the strict application of the 1899 conventions as the basis of the administration of the Sudan. He asked that he might be given a copy of the new British draft note in order that he might communicate it, together with the draft proposals as a whole, to the Government in Egypt. Mr. Henderson said he hoped to be able to hand this draft note to the Egyptian delegation next morning.

11. Meanwhile, on the 15th April, the Governor-General replied (Khartum telegram No. 69 to Cairo) that the proposal in the draft note (S. n. 2) regarding the admission of Egyptians to administrative posts in the Sudan would be fatal to the permanent interests of the Sudan. He added that this objection would not apply if it were a question of technical and clerical posts, provided that there was no doubt as to the meaning of the words "resulting from" in article 13, but that, apart from this, the Sudan Government had difficulty in making any helpful alternative suggestion owing to their belief that nothing would be acceptable to Egypt which did not open up an indefinitely wide prospect.

12. On the same date the Governor-General explained (Khartum telegram No. 70 to Cairo) that he was uncertain whether the draft note (S. n. 2) had been approved by the Cabinet for presentation as it stood to the Egyptian delegation, or merely approved in principle subject to the views of the Sudan Government. He declared that there appeared to the Sudan Government to be an obvious discrepancy between the proposals in the note and the pledges previously conveyed to them on behalf of His Majesty's Government in reply to their recent resolutions, and asked that, in these circumstances, the exchange of telegrams might be laid before the Cabinet.

13. At the eleventh meeting of the conference on the 16th April the British delegation decided that, in view of the above telegram from the Governor-General the Egyptian delegation should be told that no further concessions were possible. The Secretary of State retired to convey this decision to the Egyptian delegation, and, on returning, announced that the Egyptians were pressing hard for acceptance of a new Sudan article in one or other of the forms in which it had appeared in the projects published in Mahmoud Pasha's Green Book. These forms were as follows:—

S. a. 4—

Project A.—The Anglo-Egyptian condominium in the Sudan shall continue in the conditions resulting from existing conventional arrangements or from any modifications of the said arrangements which may in the future be made as the result of agreement between the high contracting parties. The rights and powers of the high contracting parties under the said conventions shall continue to be exercised on their joint behalf by the Governor-General appointed in accordance therewith. An Egyptian battalion shall be made available in the Sudan for the protection of the Governor-General, to whose staff an Egyptian officer shall be attached."

S. a. 5—

Project B.—"While reserving liberty to conclude new conventions in future modifying the Conventions of 1899, the high contracting parties agree that the status of the Sudan shall be that resulting from the said conventions. Accordingly, the Governor-General shall continue to exercise on the joint behalf of the high contracting parties the powers conferred upon him by the said conventions, and on the coming into force of the present treaty an Egyptian battalion shall be stationed in the Sudan."

Mr. Henderson explained that the Egyptian delegation would wish to supplement either of these articles by a note providing for a return to the *status quo ante* 1924 as regards the civil administration. The British delegation decided that these proposals were unacceptable and that they must stand fast on article 13 as already amended (S. a. 3). Mr. Henderson communicated this decision to the Egyptian delegation and subsequently announced that the Egyptians would drop the demands which they had put forward in their draft note (S. n. 1) and would accept a note on the lines of the 1929 proposals, provided that the following sentence were added:—

S. n. 3—

"There shall be no discrimination in the Sudan between British subjects and Egyptian nationals in matters of commerce and emigration or the possession of property."

The British delegation were inclined, subject to the views of the Governor-General, to accept this proposal. The Governor was therefore informed (telegram to Khartum of the 16th April) that the note (S. n. 2) considered by the Cabinet had not been, and, as a result of his observations, would not be, presented to the Egyptian delegation, and was asked for his views on the acceptability of article 13 as amended (S. a. 3), supplemented by the 1929 note with the proposed additional sentence (S. n. 3).

At the end of the day Mr. Henderson warned the British delegation that the Egyptian delegation were still urging that some concession as regards the Sudan should be made to them.

14. On the 16th April the Governor-General replied (Khartum telegram No. 71 to Cairo) that the Sudan Government had no objection to acceptance of the 1929 article and note as amended (S. a. 3 and S. n. 3), on their understanding that the

de facto position in the Sudan was safeguarded against resort by Egypt to any outside body on a possible interpretation of the words "resulting from" in the article.

At a meeting of the British delegation on the 16th April, the draft Sudan note was further considered in the light of the last telegram from the Governor-General, and it was decided to communicate the following draft to the Egyptian delegation:—

S. n. 4—

"The two Governments are agreed that there shall be no discrimination in the Sudan between British subjects and Egyptian nationals in matters of commerce and emigration or the possession of property. It has further been agreed that, if the treaty is worked in the same friendly spirit in which it has been negotiated, His Majesty's Government in the United Kingdom will be prepared to examine sympathetically a proposal for the return to the Sudan of an Egyptian battalion simultaneously with the withdrawal of the British forces from Cairo."

The Egyptian delegation then arrived and immediately communicated to the British delegation the following draft note:—

S. n. 5—

"By application of the 1899 convention, as provided for under article 13 of the treaty, the high contracting parties agree that, once the treaty is ratified, they will begin by restoring the *de facto* position before 1924. The said conventions necessarily entail that there shall be no restrictions upon Egyptians as to emigration, property and commerce."

The British delegation decided that this proposal was quite unacceptable, and that it would be impossible to admit a reversal to the *status quo ante* 1924. After communicating this decision, Mr. Henderson returned to announce that the Egyptians had made an appeal to British humanitarian instincts and had asked that the following sentence should be added to the Sudan article (S. a. 3):—

S. a. 4—

"In view of the present difficulty of obtaining the necessary data for applying and carrying into effect the provisions of the 1899 conventions, the high contracting parties agree to enter into *pourparlers* in the course of the year following the ratification of the treaty with a view to agreeing upon such application. Meanwhile, there shall be no restrictions upon the subjects of either of the high contracting parties as to property, commerce and emigration."

The British delegation decided that it would be impossible to accept the insertion in the Sudan article of the sentence in this draft, or of any other sentence specifically providing for further discussions within a year, but were prepared, in order to meet the Egyptian views, to add at the end of the treaty a new article (15) to the following effect:—

"The high contracting parties agree, if either of them should so request, to enter into friendly discussions within one year from the coming into force of the treaty with regard to any question arising out of the application of the present treaty with respect to which any difficulty may have arisen."

15. At the 13th meeting of the conference at midnight on the 16th April Nahas Pasha stated that the Egyptians could go no further in regard to the Sudan; they had not asked Mr. Henderson to make any change in his 1929 proposals, but merely to apply them, and yet, if there was any immediate difficulty about this, they were even prepared to let the whole Sudan question stand over for discussion in a year's time. Mr. Henderson, Nahas Pasha said, had suggested that a general article (15) might be added to the treaty providing for discussion of any article within one year, but the answer in Egypt to that suggestion would be that, of course, both sides had the right to discuss with each other, and so the article suggested would have no meaning of value unless its provisions were given specific reference to the Sudan by including them in the Sudan article.

Mr. Henderson replied that he had made his position in regard to the Sudan quite clear in his 1929 proposals; he had given Nahas Pasha every opportunity for

indicating his attitude in regard to those proposals before he came to London to negotiate, but Nahas Pasha, with very honest intentions no doubt, had preferred to maintain silence, with the result that he, Mr. Henderson, had been afforded no sufficient opportunity of consulting his own people, or that very important official, the Governor-General. He emphasised that if the only thing which the Egyptians wanted was an opportunity to discuss the Sudan, their wishes had been met by the suggestion of an additional article (15) providing for discussion within one year of any article of the treaty. He added that, as Sarwat Pasha had been quoted by Nahas Pasha, he would point out that when Sarwat found he could solve only one problem at a time, namely, the relations between Great Britain and Egypt, he had, with real statesmanship, agreed to make no reference to the Sudan and to trust to the goodwill which a treaty of alliance would beget. Nahas Pasha repeated that the general article providing for discussion did not satisfy the Egyptian delegation, and that he would like to talk the question over again with Mr. Henderson later in the morning.

16. Before the 14th meeting of the conference on the 17th April, Mr. Henderson informed the British delegation of the following requests which the Egyptians had communicated through Mr. Campbell in the early hours of the morning:—

- (1) To replace the words "arising out of the application of the present treaty" in the general article (15) providing for discussion by the words "arising out of the application of any article of the present treaty"; and
- (2) To introduce in the Sudan article or note a provision for the return of an Egyptian battalion to the Sudan immediately upon ratification of the treaty.
- (3) To re-word the reference in the Sudan note (S. n. 4) to the absence of discrimination against British subjects and Egyptian nationals in the Sudan so as to remove any restrictions on Egyptians approved by their Government to immigrate into the Sudan, own property and engage in commerce.

The British delegation decided that (1) might be accepted, but that (2) was quite unacceptable. On the arrival of the Egyptian delegation, Mr. Campbell was instructed to communicate this decision to them and to add that the wording of the Sudan note (S. n. 3) had already been approved by the Governor-General and could not be revised. Subsequently, a print of the British draft proposals, including the Sudan article (S. a. 3) and note (S. n. 3), as approved by the Governor-General, was communicated confidentially by Mr. Henderson to the Egyptian delegation, and the conference then adjourned until the 28th April to enable the Egyptians to consult their Government and colleagues in Egypt.

17. On the 22nd April the Governor-General was informed (telegram to Cairo No. 151) that, as regards his understanding that the *de facto* position in the Sudan was safeguarded against resort by Egypt to an outside arbitral body, the present negotiations had made no change in the legal position as it existed under the 1929 proposals; that it would, however, be impossible now to introduce any restrictions on the operation of the provisions of article 15 of those proposals under which any difference with regard to the interpretation or application of any article in the treaty, including article 13, could be dealt with in accordance with the provisions of the Covenant of the League of Nations; that, indeed, even if the present treaty contained no provisions whatever with regard to the Sudan, it was far from certain that Egypt would be unable to bring the question of the Sudan before the League; that, in such event, she might dispute the validity of the 1899 conventions, or even if held to admit the validity of the conventions, would be freed from the interpretations and glosses of those conventions as contained in the 1929 proposals and retained in the present negotiations; and, finally, that His Majesty's Government were advised that, if Egypt had resort to the League under the terms of the proposed treaty, it was improbable she could secure any decision seriously inconsistent with the existing state of affairs in the Sudan.

18. To this the Governor-General replied on the 25th April (Khartum telegram to Cairo No. 76), that it was his recognition that there had been no change from the position existing under article 15 of the 1929 proposals which had led him to hope that the British interpretation of the words "resulting from" in the Sudan article might have been established. As this was not so he must rely on the view taken by His Majesty's Government as to the outcome of recourse by Egypt to an outside body.

19. On the 27th April the Governor-General asked (Khartum telegram to Cairo No. 77) that, if negotiations broke down and so demonstrated the existence of diametrically opposite interpretations of the Condominium Agreement, His Majesty's Government would, with a view to stabilising the situation in the Sudan, make an authoritative public statement that they had undertaken responsibility for full control of the Sudan while safeguarding Egypt's material interests in the matter of the Nile and her southern frontier.

20. On the 29th April Mr. Henderson informed the British delegation that he had reason to believe the Egyptian delegation would ask that the new article (15) in the treaty, which provided for discussion of any article within one year, should be further amended so as to include specific reference to the Sudan. Mr. Henderson said that, in anticipation of this request, he had had prepared for consideration by the British delegation the following draft of a suggested additional paragraph to the Sudan note:—

S. n. 6—

"The two Governments agree, if either of them should so request, to enter into friendly discussions within one year from the coming into force of the treaty with regard to any question arising out of the application of article 13 which relates to the Sudan, or of any other article of the treaty with respect to which any difficulty may have arisen."

Consideration by the British delegation of this draft was postponed owing to the adjournment of the negotiations until the 5th May at the request of the Egyptian delegation.

21. At the sixteenth meeting of the conference on the 5th May Nahas Pasha stated that, after consultation with their friends in Egypt, the Egyptian delegation had decided, in their desire to avert a break-down of the negotiations, to submit the two following further alternative drafts of the Sudan article:—

S. a. 5—

1. "Without prejudice to Egyptian rights and interests in the Sudan, the high contracting parties agree that the question of the Sudan shall be reserved for future negotiations to be conducted between them in the course of a period of one year from the ratification of the present treaty";

or

S. a. 6—

2. "Without prejudice to Egyptian rights and interests in the Sudan, the high contracting parties agree that the question of the Sudan shall be reserved for future negotiations. Meanwhile, the *de facto* position obtaining in the Sudan before 1924 shall be restored."

Mr. Henderson informed the Egyptian delegation that neither of the draft articles which they proposed to substitute for an article (S. a. 3) which he had understood, before the adjournment of the negotiations, to have been accepted by both sides, was acceptable to the British delegation, who considered that both drafts went beyond their mandate from His Majesty's Government, and beyond the proposals made to the Egyptian people and submitted to the British Parliament. Nahas Pasha replied that the Egyptian delegation considered that they had made a great advance in proposing the postponement of the Sudan question, since such postponement would be to the prejudice of Egypt. Mr. Henderson repeated that the drafts went beyond the mandate of the British delegation, and said that it was useless to continue the negotiations if the Egyptian delegation insisted on making every Egyptian problem dependent on the Sudan.

Nahas Pasha said he did not understand how the mere postponement of the Sudan question could be beyond the mandate of the British delegation. Mr. Henderson explained that postponement would be a departure from his 1929 proposals. Nahas Pasha replied that the Egyptian delegation had never doubted that the 1929 proposals meant co-administration in partnership in the Sudan, but, on learning from Mr. Henderson that there was now a difficulty in applying those proposals, had been willing to postpone the whole question for a year. Mr. Henderson remarked that he had already explained that the responsibility for any misunderstanding as to the meaning of the 1929 proposals rested with Nahas Pasha and not with himself.

Nahas Pasha asked whether it was meant that the Sudan question should be solved or adjourned, and said that the Egyptian delegation were ready to discuss its solution or, if that were not possible now, to adjourn it. Mr. Henderson pointed out that provision had already been made for leaving the door open for the modification of the 1899 conventions, and also for the discussion of any article of the treaty within one year. Nahas Pasha said that the difficulty from the Egyptian point of view was that the provision for discussion within a year did not specifically refer to the Sudan, and that the notes which the Egyptian delegation had presented had not been accepted. He explained that the Egyptian delegation had begun the discussion by presenting a note which had been drafted on the assumption that article 13 would be applied. When they found that His Majesty's Government would not accept that, they were prepared to agree to make a beginning by the restoration of the position in the Sudan prior to 1924, but this had been refused; they had then asked for joint and effective administration, which had also been refused; they had now made a new proposal which was quite different from all their previous proposals, namely, that the whole question should be adjourned for a period during which the *status quo* in the Sudan would remain.

Mr. Henderson replied that the proposal already left the door open for future discussion in regard to the Sudan, and that, as there was no use in deceiving the Egyptian delegation, he must state emphatically that the omission of article 13 as amended (S. a. 3) could not be accepted. Nahas Pasha asked whether, in that case, the British delegation were ready to enter into discussions now on the application of the article. Mr. Henderson replied that it was useless to ask him to do that, since the Governor-General was in Khartum; he could not now negotiate for the Sudan, but he could negotiate a treaty between Great Britain and Egypt, and leave the door open for negotiations in regard to the Sudan. He repeated that unless the Egyptian delegation were prepared to agree to the Sudan article (S. a. 3) no treaty was possible. Nahas Pasha said he would give a final reply the following morning.

22. At the seventeenth meeting of the conference on the 6th May, Mr. Henderson had a private conversation with the Egyptian delegation, and subsequently informed the British delegation that two further proposals had now been made by the Egyptians:—

(1) To omit the reference, in the second sentence of the article (S. a. 3), to the powers of the Governor-General, or

(2) to re-draft the article (S. a. 3) as follows:—

S. a. 7—

"While reserving liberty to conclude new conventions in future modifying the conventions of 1899 and settling the question of the Sudan, the high contracting parties agree that, without prejudice to Egypt's rights and material interests, the status of the Sudan shall be that resultant from the said conventions. Accordingly, the Governor-General shall, as one of the consequences of the 1899 conventions, continue to exercise, on the joint behalf of the high contracting parties the powers conferred upon him by the said convention,"

and to supplement it with a statement of the Egyptian position in a note. Mr. Henderson explained that he had rejected (1) out of hand, but agreed to refer (2) to the British delegation. After lengthy discussion the delegation decided that the first sentence of the new draft (S. a. 7) was dangerous, since it might be taken to indicate that the whole question of the status of the Sudan was left unsettled with a view to further negotiations. They agreed, however, to inform the Egyptian delegation that they would be prepared to submit the following counter-draft to the consideration of the Cabinet provided that it was accepted by the Egyptian delegation, and that the note which the latter proposed to communicate was found to be satisfactory. The delegation decided at the same time to refer their counter-draft to the Governor-General in order that his views might be available to the Cabinet:—

S. a. 8—

"While reserving liberty to conclude new conventions in future modifying the conventions of 1899 and settling any questions relating to the Sudan which may arise out of the operation of the said conventions, the high contracting

parties agree that, without prejudice to Egypt's rights and material interests, the status of the Sudan shall be that resulting from the said conventions. The Governor-General shall, as one of the consequences of the 1899 conventions, continue to exercise on the joint behalf of the high contracting parties the powers conferred upon him by the said conventions."

Mr. Henderson communicated this draft (S. a. 8) to the Egyptian delegation and returned to say that they insisted on maintaining the first sentence in their draft (S. a. 7) and on supplementing the article with a note, as follows:—

S. a. 9—

"While reserving liberty to conclude new conventions in future modifying the conventions of 1899 and settling the Sudan question, the high contracting parties agree that, without prejudice to Egypt's rights and material interests, the status of the Sudan shall be that resulting from the said conventions. The Governor-General shall, as one of the consequences of the 1899 conventions, continue to exercise on the joint behalf of the high contracting parties the powers conferred upon him by the said conventions."

and

S. n. 7—

"With reference to article 11, I would point out that we understand by this article that it does not in any way affect Egypt's right of sovereignty over the Sudan and the joint administration thereof by the two high contracting parties."

The British delegation considered these drafts and decided that the persistence of the Egyptian delegation in objecting to the inclusion in the article of any words such as "settling any question relating to the Sudan which may arise out of the operation of the said conventions" was significant and confirmed the fear that their intention was to secure an article so worded as to enable them to raise at an early date the whole question of the validity of the conventions and the status of the Sudan, and that, therefore, the draft article (S. a. 9) and note (S. n. 7) combined were unacceptable. They agreed, however, that the Governor-General's views should again be ascertained for submission to the Cabinet, and that, meanwhile, an attempt should be made to re-cast the Egyptian note (S. n. 7) in a less objectionable form. These decisions were not communicated to the Egyptian delegation, who had already left the Foreign Office. The text of the new article (S. a. 9) was immediately communicated to the Governor-General (telegram to Cairo No. 158), who was requested to furnish his views for the consideration of the Cabinet.

23. At the 18th meeting of the conference of the 6th May, Mr. Henderson and Mr. Dalton had a private conversation with Nahas Pasha and Makram Bey Ebeid, which lasted nearly two hours. Subsequently, Mr. Henderson informed the British delegation that the Egyptians were now prepared to omit the general provision for discussion of any article of the treaty within a year and to accept a Sudan article as follows:—

S. a. 10—

"While reserving liberty to conclude new conventions in future modifying the conventions of 1899, the high contracting parties agree that, without prejudice to Egypt's rights and material interests, the status of the Sudan shall be that resulting from the said conventions. Accordingly, the Governor-General shall continue to exercise on the joint behalf of the high contracting parties the powers conferred upon him by the said conventions. The high contracting parties agree, if either of them should so request, to enter into friendly discussions within twelve months of the coming into force of the present treaty, with regard to the application of the said conventions."

The British delegation considered this draft very carefully, and decided that, as it was identical with article 13 as already amended (S. a. 3), except for the addition of a sentence which would enable the Egyptian Government to raise before the League of Nations questions regarding the application of the 1899 conventions, but not any question of the powers of the Governor-General, they could recommend its

acceptance to the Cabinet and the Governor-General. Mr. Henderson then explained that the Egyptian delegation still insisted on a wider latitude for Egyptian immigration into the Sudan than would be given by equality of treatment between Egyptian nationals and British subjects, on the ground that, as England did not want to populate the Sudan, such a provision gave Egypt no real concession; they must, therefore, put into a note a statement of what they understood by "no discrimination."

Mr. Henderson then retired to inform the Egyptian delegation that the British delegation were prepared to recommend the new draft article (S. a. 10) to the Cabinet, but returned to say that Nahas Pasha and Makram Bey, to whom he had previously been speaking, had consulted their colleagues, and Egyptian acceptance of the article was now conditional upon British acceptance of a supplementary note as follows:—

S. n. 8—

"With reference to article 11, I would point out that we understand by this article that it does not in any way affect Egypt's rights of sovereignty over the Sudan and the joint administration thereof by the high contracting parties."

The British delegation were unable to accept the assertion of Egyptian sovereignty in this draft, but submitted the following counter-draft:—

S. n. 9—

"With reference to article 11 of the treaty signed to-day, I wish to place on record the understanding of our Governments that this article does not in any way affect the joint sovereignty over the Sudan which is vested in His Majesty the King of Egypt and His Britannic Majesty, nor the administration of the country on their joint behalf by the Governor-General."

Mr. Henderson handed this counter-draft to the Egyptian delegation, and announced later that it had provoked from them the loudest protestations up to date. He explained that the reference to joint sovereignty had provoked Nahas Pasha to declare that England was stealing the Sudan, to which he, Mr. Henderson, had replied by reading, to the obvious dismay of Nahas Pasha, the following extracts, which had been prepared by the British delegation, from standard authorities on international law in regard to the position of the Sudan:—

"The Sovereignty of the Sudan in International Law."

"Two or more full sovereign States on one and the same territory are an impossibility. The following seven cases, of which the law of nations is cognisant, are apparent, but not real, exceptions to this rule:—

"(1) There is, first, the case of the so-called condominium. It happens sometimes that a piece of territory consisting of land or water is under the *joint tenancy* of two or more States, these several States exercising sovereignty conjointly over it, and the individuals living thereon. . . . Since 1898 the Sudan has been under the condominium of Great Britain and Egypt. It is easy to show that in such cases there are not two States on one and the same territory, but that there are pieces of territory the destiny of which is not decided, and which are kept separate from the territories of the interested States under a separate administration.

"Until a final settlement, the interested States do not each exercise an individual sovereignty over these pieces, but they agree upon a joint administration under their conjoint sovereignty."—"Oppenheim's International Law, 1928," pp. 362-363.

"A territory may be held in condominium by two or more Powers, as is the case with the Sudan, which, since 1899, has been so held by Great Britain and Egypt. By this is meant, not that there are two sovereigns over the same territory—a thing which by the nature of the case is impossible—but that the one sovereignty is vested in a body made up of the Governments of the two Powers that exercise the condominium."—"Lawrence's International Law," pp. 171-172.

Sovereignty over Sudan.

"Von Liszt: *Völkerrecht*," 11th ed., p. 69:—

(1) "The Sudan, reconquered by England, remains by right of conquest under the common dominion (sovereign power) of England and Egypt."

"Footnote to above passage.

(2) "See likewise Grünan* and Blanchard.* On the other hand von Dungern† explains the Sudan as being a sovereign State; but according to him too the bearers‡ of that sovereignty are Great Britain and Egypt.

(3) "On p. 53 Von Liszt says: 'By right of conquest England possesses, in common with Egypt, full sovereignty over the Sudan.'

(4) "On p. 25, in speaking of England's aim (as he alleges) of gradually bridging the gulf between its north and south African possessions, he says:—

"The conquest of 1899 of the Sudan which, since 1885, had been independent brought (England) appreciably nearer to this object.'

(5) "On p. 277 he speaks of Egypt having conquered the Sudan in 1899 in common with England."

24. At this stage it was arranged that a further meeting of the conference should take place the following morning before the meeting with the Cabinet. Meanwhile, the Governor-General was informed (telegram to Cairo No. 160 of the 6th May) that the last draft article (S. a. 9) sent to him had appeared so objectionable that great efforts had been made to find some other solution, with the result that the Egyptians had finally been induced to agree to a further draft (S. a. 10) of which the text was quoted.

It was explained to the Governor-General that the fate of the whole settlement depended on the decision in regard to this draft, which would be submitted to the Cabinet together with his comments, in the morning. This telegram crossed one (Khartum telegram to Cairo No. 79) from the Governor-General stating that in the light of the Egyptian attitude the Sudan Government felt that the only satisfactory outcome of the negotiations would have been the establishment of the position that His Majesty's Government had accepted responsibility for full control of the Sudan, yet they had no objection to the last draft article (S. a. 9) as compared with article 13 of the 1929 proposals.

25. Early the following morning, the 7th May, a further telegram (Khartum telegram to Cairo No. 81) was received from the Governor-General, declaring that the final draft (S. a. 10) communicated was infinitely more dangerous than the immediately preceding one (S. a. 9) in view of the unsettling effect on the Sudan of the admission, implicit in the contingent promise to enter into discussions within one year, that the present arrangement was agreed to be merely a temporary one to be modified in the future. He asked that if, despite the views of the Sudan Government, future discussions had to be agreed to, no clause relating to the Sudan should be included in any treaty signed with Egypt until those discussions had been completed, and that, pending such discussions, the reference to the return to the Sudan of an Egyptian battalion should be cancelled. These views of the Governor-General in regard to discussions were supported (Cairo telegram No. 217) by Mr. Hoare, who considered that it would be infinitely better that any modifications contemplated in the 1899 conventions should be negotiated now and form part of the treaty.

26. At the 19th meeting of the conference on the 7th May, Mr. Henderson and Mr. Dalton had a private conversation with Nahas Pasha and Makram Bey Ebeid, at the conclusion of which Mr. Henderson reported that the Egyptians were drafting their note in regard to their interpretation of the words "there shall be no discrimination."

* Unobtainable in the Foreign Office. { Von Grünan: "Über Ägypten" (On Egypt).
Blanchard: "The position of Egypt in Constitutional and International Law, 1903."

† Von Dungern: *Das Staatsrecht "Ägypten 1911."*

‡ This is the literal translation of "Träger."

27. The Cabinet met at 10.30 that morning, and, at 1 P.M., Mr. Henderson, accompanied by Mr. Dalton, received Nahas Pasha and informed him of the Cabinet decision that they could not accept a provision for discussion of the Sudan question within a year. Nahas said that, in that case, the only thing to do was to say good-bye and part friends, and Mr. Henderson accordingly returned to the British delegation and announced that negotiations were at an end.

A few minutes later, however, an intimation was received from the Egyptian delegation that they were returning to see Mr. Henderson at 3 P.M., if only to say good-bye formally. Mr. Henderson thereupon decided to endeavour to resume negotiations on all points outstanding, other than the text of the Sudan article, on the understanding that, if agreement were reached, he would be prepared to resubmit the latest draft of the Sudan article (S. a. 10) to the Cabinet the following morning as part of a complete and comprehensive treaty. In accordance with this decision, the Governor-General was immediately informed (telegram to Cairo No. 161) that, in consequence of his views, the Cabinet had preferred the last draft but one (S. a. 9) to the last draft (S. a. 10) of the article, but that the Egyptian delegation had refused to accept this draft (S. a. 9) without some provision for general discussion within a year; that the point which had now to be decided was whether His Majesty's Government were to face the consequences of persisting in a refusal to express willingness to discuss with the Egyptians the application of the Conventions of 1899, the recognition of which by Egypt His Majesty's Government had themselves made an essential condition of agreement; that Egypt's claims under the 1899 conventions must one day be met and answered, either in direct discussion with the Egyptians, in the League, or at the Permanent Court; that His Majesty's Government could not establish beforehand their decision towards such discussion without a similar course being taken by Egypt, that, finally, an endeavour would be made to reach agreement on all other points still outstanding with a view to presenting to the Cabinet in the morning a complete treaty, together with his comments.

28. When the Egyptian delegation returned at 3 P.M. Nahas Pasha proposed to omit any general provision for discussion within a year and to replace it by a note providing for discussion within a year:—

S. n. 10—

"On the application of the 1899 conventions or of any article of the treaty."

The British delegation decided that their objections to the substitution of the words "on the application of the 1899 conventions" for words such as "any question relating to the application of the 1899 conventions" could not be met by merely transferring the offending phrase from an article to a note, more especially as the Governor-General had already made clear his strong objections to any clause of the nature proposed. They agreed, however, to submit the following counter-draft and to inform the Egyptian delegation that, if agreement was reached on the terms of a complete treaty, they would be prepared to submit this counter-draft to the Cabinet in the morning (by which time the further views of the Governor-General would be available):—

S. n. 11—

"The two Governments agree, if either of them should so request, to enter into friendly discussion within one year of the coming into force of the treaty with regard to any question arising out of the application of the 1899 conventions, or any article of the treaty."

When this was submitted to the Egyptian delegation, Nahas Pasha again objected to the inclusion of the words "any question arising out of," though he indicated that he might reconsider his objection if the words "or of any article of the treaty" were omitted from the second sentence. The British delegation felt able to accept the omission suggested and resubmitted the note as follows:—

S. n. 12—

"The two Governments agree, if either of them should so request, to enter into friendly discussions within a year of the coming into force of the treaty with regard to any question arising out of the application of the 1899 conventions."

They decided, however, that if the Egyptian delegation would not accept this last draft, Mr. Henderson should inform them that he would be prepared, provided he could reach agreement with them on a complete treaty, to submit the Egyptian draft (S. n. 10) and their own last draft (S. n. 12) as alternatives to the Cabinet for their decision.

29. Discussion was resumed the same evening on all other points outstanding, and the British delegation made a further attempt to meet the Egyptian views in regard to the alleged discrimination against Egyptians in the Sudan by submission of the following draft :—

S. n. 13—

"With reference to article 11, it is agreed that there shall be no discrimination in the Sudan between British subjects and Egyptian nationals in matters of immigration, property or commerce. Accordingly, British subjects and Egyptian nationals will be free to possess property and engage in trade and commerce in the Sudan on compliance with the local laws and regulations. The control by the Sudan Government in the interest of the Sudan of entrance and immigration into the Sudan shall not be exercised unreasonably to exclude British subjects or Egyptian nationals."

A prolonged attempt by Mr. Henderson and Mr. Dalton to induce the Egyptian delegation to accept this draft failed on the ground of objection to inclusion of the word "unreasonably," and the following redraft was put forward by the Egyptian delegation :—

S. n. 14—

"With reference to article 11, it is agreed that there shall be no discrimination in the Sudan between British subjects and Egyptian nationals in the enjoyment of their right to enter or immigrate into the Sudan or to hold property and to engage in trade or commerce therein."

The British delegation were unable to admit the existence of the right suggested in the Egyptian draft, and redrafted the latter as follows :—

S. n. 15—

"With reference to article 11, it is agreed that there shall be no discrimination in the Sudan between British subjects and Egyptian nationals in regard to entry or immigration into the Sudan or the holding of property and engaging in trade and commerce therein."

Discussion on this draft was still proceeding without apparent modification of the Egyptian attitude when the Governor-General's reply (Khartum telegram to Cairo No. 83) was received to the two telegrams which had been addressed to him during the afternoon and evening. In his reply the Governor-General emphasised the feeling of the Sudan Government that the conclusion of a treaty leaving open to immediate discussion the participation of Egypt in the administration of the Sudan would immediately give rise to grave unsettlement and ultimately undermine the whole fabric; that the adoption of such a course would, in the view of the Sudan Government, be an historical and moral *non sequitur* which could not be reconciled with the ultimate interest of the Sudan and the definite trend of the policy of His Majesty's Government in the past.

30. On receipt of this telegram Mr. Henderson consulted his colleagues, and decided that, in view of the attitude of the Sudan Government, it was now impossible for the British delegation to go beyond article 13 as amended (S. a. 9), and a provision in the note ensuring absence of discrimination between British subjects and Egyptian nationals in the Sudan (S. n. 4).

It was also decided that the reference in the 1929 note to the contingent return to the Sudan of an Egyptian battalion must be retained as evidence that the British interpretation of the Sudan article, namely, that the actual status of the Sudan to-day was that which in fact resulted from the 1899 conventions, was no longer disputed; that consequently the treaty provisions regarding the Sudan were accepted by Egypt as a settlement until such time as both parties might agree to modify the 1899 conventions.

31. Mr. Henderson communicated this decision to the Egyptian delegation, and informed them that there was no room for further discussion in regard to the Sudan, and no possibility of a treaty unless the following article and note were accepted textually :—

Article.—"While reserving liberty to conclude new conventions of 1899 and settling the Sudan question, the high contracting parties agree that, without prejudice to Egypt's rights and material interests, the status of the Sudan shall be that resulting from the said conventions. The Governor-General shall, as one of the consequences of the 1899 conventions, continue to exercise, on the joint behalf of the high contracting parties, the powers conferred upon him by the said conventions."

Note.—"The two Governments are agreed that there shall be no discrimination in the Sudan between British subjects and Egyptian nationals in matters of commerce and immigration or the possession of property. It has further been agreed that, if the treaty is worked in the same friendly spirit in which it has been negotiated, His Majesty's Government in the United Kingdom will be prepared to examine sympathetically a proposal for the return to the Sudan of an Egyptian battalion simultaneously with the withdrawal of the British forces from Cairo."

32. When this decision was communicated to the Egyptian delegation by Mr. Henderson they were greatly taken aback, and asked for an adjournment on the plea that they were exhausted. Mr. Henderson made it clear to them that the Cabinet would not consider the conclusion of a treaty on any other basis than that which had just been stated to them, and on this understanding negotiations were adjourned until the following morning.

33. The Cabinet met at 10 A.M. and approved the attitude adopted by the British delegation in regard to the Sudan. Nahas Pasha and Makram Elbeid arrived an hour later, and were informed by Mr. Henderson of the Cabinet decision. They retired to deliberate with their colleagues, and then declared that they could not accept the 1899 conventions without some provision for future discussion, although they were prepared for such discussion to be postponed for a longer period than one year. Mr. Henderson replied that, in that case, the responsibility lay with the Egyptian delegation of throwing away the substantial advantages which they could have gained by settlement of the Egyptian problem for less substantial claims with regard to the Sudan. The delegations then met in full conference, in order to bring the negotiations formally to an end. Mr. Henderson, in expressing the general regret at the failure of the negotiations, said they were compelled to recognise that, though they had solved the problem of Anglo-Egyptian relations, they had been unable to solve the closely connected problem of the Sudan. Nahas Pasha replied that it was through no want of desire on the part of either side to overcome the difficulties that no agreement had been reached with regard to the Sudan; he asked the British delegation to recognise that the difficulties existing in regard to the Sudan were of essential importance to the Egyptian delegation, since the British proposals would appear to make Egypt lose her present rights in the Sudan. The Sudan was sacred to Egypt, and Egypt was sovereign there.

34. The Governor-General was informed (telegram No. 163 to Cairo of the 8th May) of the breakdown of the negotiations in consequence of intransigent Egyptian insistence on unrestricted right to emigrate to Sudan and refusal to accept text of Sudan article as concurred in by him (S. a. 9) and the sentences in the note regarding non-discrimination (S. n. 4) and the contingent return of an Egyptian battalion as also approved by him.

35. To this the Governor-General replied (Khartum telegram No. 2 of the 9th May) by expressing appreciation of the consistent support received from His Majesty's Government, but drew formal attention to the fact that his concurrence in the Sudan article was carefully qualified in the manner set out in paragraphs 14 and 24 of this memorandum, and his concurrence in the return of the Egyptian battalion made conditional on finality being achieved, whereas in fact article 13 and later articles, none of which had been seen by him at the time, provided for a negation of finality and the re-opening of negotiations.

CECIL CAMPBELL

Foreign Office, May 15, 1930.

[J 1648/4/16]

No. 86.

Anglo-Egyptian Negotiations, March 31-May 8, 1930.

Memorandum, complementary to No. 85 (see p. 180), showing the position which had been reached on May 8 with regard to the Notes to be annexed to the Treaty.

Paragraphs on which agreement had been reached.	Paragraphs still under discussion. The latest drafts are given in each case, even though the last British draft may not have been communicated to the Egyptian Delegation.
<i>Egyptian Note.</i> Sir, I wish to place on record the understandings which have been reached between us in regard to various important matters arising out of or in connexion with the Treaty which we have signed to-day. In regard to matters of a military character we are agreed as follows:— (1) British personnel shall be withdrawn from the Egyptian Army and the functions of the Inspector-General and his staff shall terminate. 2. The Egyptian draft was as follows:— “The Egyptian Government, desiring to perfect the training of the Egyptian Army, and intending, in the interests of the military alliance which has been established, that such foreign instructors as they may deem necessary shall be chosen from amongst British subjects only, will avail themselves of the advice of a British military mission for such time as they may deem necessary. His Majesty's Government in the United Kingdom will furnish the military mission in the conditions desired by the Egyptian Government, and will also undertake to receive and provide proper training in the United Kingdom for any personnel of the Egyptian forces which the Egyptian Government may desire to send for the purpose of being trained.” British redraft of paragraph (2) of the Egyptian Note:— “The Egyptian Government, desiring to perfect the training of the Egyptian Army, and intending, as a natural consequence of the alliance which has been established, that such foreign instructors as they may deem necessary shall be	(3) Likewise, in the interests of the alliance, and in view of the possible necessity of active co-operation between the British and Egyptian forces, the armament, including aircraft, of the Egyptian forces shall in general be similar to the type of armament used by British forces. His Majesty's Government in the United Kingdom undertake to use their good offices to facilitate the supply of such armament from Great Britain whenever the Egyptian Government so desire. NOTE.—Makram Ebeid accepted the insertion of the words “including aircraft” subject to their being acceptable to the rest of the Egyptian Delegation. 4. Egyptian draft:— “With reference to article 9 of the Treaty, it is agreed that the British land forces shall not exceed 8,000 men, while the Air Forces shall not exceed 3,000 men, of whom 1/7th are pilots and the rest are mechanics and workmen. “These forces shall be stationed in a zone extending from the Moaskar in the north-west of Ismailia to such area in the north and the west of the said Moaskar as will provide adequate accommodation and training grounds for the forces in question, provided the whole zone shall not extend westwards beyond Malsama

Paragraphs on which agreement had been reached.

Paragraphs still under discussion. The latest drafts are given in each case, even though the last British draft may not have been communicated to the Egyptian Delegation.

Egyptian Note—(continued).

British redraft.

chosen from amongst British subjects only, will avail themselves of the advice of a British military mission. The number of the members of the military mission, and the conditions and length of their service, shall be agreed upon between the two Governments. His Majesty's Government in the United Kingdom will furnish the military mission which the Egyptian Government desire, and will also undertake to receive and provide training in the United Kingdom for any personnel of the Egyptian forces which the Egyptian Government may desire to send for the purpose of being trained. In the circumstances created by this Treaty the Egyptian Government will naturally not desire to send any personnel of their armed forces to be trained abroad elsewhere than in the United Kingdom.”

(3) Likewise, in the interests of the alliance, and in view of the possible necessity of active co-operation between the British and Egyptian forces, the armament, including aircraft, of the Egyptian forces shall in general be similar to the type of armament used by British forces.

His Majesty's Government in the United Kingdom undertake to use their good offices to facilitate the supply of such armament from Great Britain whenever the Egyptian Government so desire.

NOTE.—Makram Ebeid accepted the insertion of the words “including aircraft” subject to their being acceptable to the rest of the Egyptian Delegation.

4. Egyptian draft:—

“With reference to article 9 of the Treaty, it is agreed that the British land forces shall not exceed 8,000 men, while the Air Forces shall not exceed 3,000 men, of whom 1/7th are pilots and the rest are mechanics and workmen.

“These forces shall be stationed in a zone extending from the Moaskar in the north-west of Ismailia to such area in the north and the west of the said Moaskar as will provide adequate accommodation and training grounds for the forces in question, provided the whole zone shall not extend westwards beyond Malsama

Paragraphs on which agreement had been reached.	Paragraphs still under discussion. The latest drafts are given in each case, even though the last British draft may not have been communicated to the Egyptian Delegation.
<i>Egyptian Note—(continued).</i>	<i>Egyptian draft.</i> Railway Station, and shall not be within reach of cultivated grounds." British redraft of paragraph 4 of the Egyptian Note, not submitted to the Egyptian Delegation, who had, however, agreed to the numbers as given in the first paragraph:— "With reference to Article 9 of the Treaty, it is agreed that, subject to an increase being made by agreement in time of emergency, the British land forces shall not exceed 8,000 men and that the British air forces shall not exceed 400 pilots together with the necessary number of mechanics. "These forces, less those to be stationed in Port Fuad, shall be stationed in an area lying between Moascar (to the west of Ismailia) on the east and Mahsama Railway Station on the west and to the north of the Ismailia Canal. The extent of the area will be such as will provide adequate accommodation and training grounds for the forces in question provided that the whole area will not extend westward beyond Mahsama Railway Station and shall not encroach on cultivated land." 5. Egyptian draft:— "The Egyptian Government will provide for the British troops as above specified, less the number for which accommodation already exists in the above zone, lands and barracks, in return for such lands and buildings belonging to the British army as will be handed over, when vacated, to the Egyptian Government. Having regard to the character of the region in the said zone, steps will be taken by the Egyptian Government to furnish reasonable amenities by planting trees, gardens, &c., for the troops, who will also be provided with an adequate emergency water supply." The following redraft was prepared by the British experts but was not submitted to the Egyptian experts:— "The Egyptian Government will provide for the British troops, 8,000 of the land forces and 3,000 of the air forces, less the number for which accommodation already exists in the above zone, land and buildings, suitable according to modern generally recognised standards

Paragraphs on which agreement had been reached.	Paragraphs still under discussion. The latest drafts are given in each case, even though the last British draft may not have been communicated to the Egyptian Delegation.
<i>Egyptian Note—(continued).</i>	<i>British redraft.</i> and satisfactory to His Britannic Majesty's Government, in return for such lands and buildings belonging to the British forces as will be handed over, when vacated, to the Egyptian Government. Having regard to the character of the region in the said zone, steps will be taken by the Egyptian Government in friendly agreement with His Britannic Majesty's Government to furnish reasonable amenities by planting trees, gardens, &c., for the forces, who will also be provided with an adequate emergency water supply. The Egyptian Government will also provide a convalescent camp on the Mediterranean coast providing accommodation and amenities equal to those now at the disposal of the said forces. "They will also, in consultation with His Majesty's Government, allot suitable areas in the desert for training and manoeuvres, and will accord to the British Air Force access for training purposes to the desert areas lying to the east of a line through Mahsama Railway Station." NOTE.—The words printed in italics had been provisionally agreed to by the Egyptian Delegation. 6. Egyptian draft:— "British forces in excess of the numbers fixed above will evacuate Egypt as soon as the present treaty is ratified. "With regard to the forces authorised to be stationed in the specified zone on the Canal, it is understood that as soon as adequate accommodation is provided for the forces now stationed in either of the two cities of Cairo and Alexandria and their suburbs, such forces will withdraw from that city and its suburbs. Forces in other parts of Egypt will withdraw, each in turn, as soon as accommodation in the specified zone is provided for them respectively. "Likewise, air forces shall be withdrawn as soon as adequate accommodation is provided for them." British redraft of Egyptian Note, paragraph (6), which was not communicated to the Egyptian Delegation:— "British forces in excess of the numbers fixed above will evacuate Egypt within six months of the ratification of the present Treaty.

Paragraphs on which agreement had been reached.	Paragraphs still under discussion. The latest drafts are given in each case, even though the last British draft may not have been communicated to the Egyptian Delegation.
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Egyptian Note—(continued).

7. The Egyptian Government will accord facilities at Port Said and Suez for the landing and storage of British military material and supplies, and will accord reasonable means of communication between these ports and the zone where the British troops are stationed.

NOTE.—The Egyptian Delegation accepted this wording on the explanation being given that all that we required was a small detachment in these ports to handle and guard the British Army stores.

British redraft.

“With regard to the military and air forces which are authorised to be stationed in the specified zone on the Canal, it is understood that as soon as adequate accommodation and amenities have been provided for the forces now stationed in either of the two cities of Cairo and Alexandria and their suburbs, such forces will withdraw from that city and its suburbs. Forces in other parts of Egypt will withdraw each in turn, as soon as accommodation and amenities in the specified zone are provided for them respectively.”

8. Egyptian draft :—

“Subject to any modifications which the two Governments may agree to introduce in the future, in accordance with the altered conditions, and without prejudice to the terms of present agreements giving optional powers to either side, the immunities and privileges in jurisdictional and fiscal matters including freedom from taxation, at present enjoyed by the British forces in Egypt, will be accorded to all the armed forces of His Britannic Majesty, referred to above. It is understood that Egyptians committing any crime against British troops will continue to be tried by ordinary Egyptian courts.”

Above draft as revised by British Committee (not finally agreed with Egyptians, but almost certainly acceptable) :—

“The immunities and privileges in jurisdictional and fiscal matters, including freedom from taxation, at present enjoyed by the British forces in Egypt, will be accorded to all the armed forces of His Britannic Majesty referred

Paragraphs on which agreement had been reached.	Paragraphs still under discussion. The latest drafts are given in each case, even though the last British draft may not have been communicated to the Egyptian Delegation.
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Egyptian Note—(continued).

(9) Unless the two Governments agree to the contrary, the Egyptian Government will prohibit the passage of aircraft over the territories situated on either side of the Suez Canal and within 20 kilometres of it. This prohibition will not, however, apply to the forces of the two Governments or to services maintained by genuinely British or Egyptian organisations, operating under the authority of the Egyptian Government.

British redraft.

to above, subject to any modification which the two Governments may agree to introduce in the future, in accordance with the altered conditions, and without prejudice to the right of either party under particular existing agreements to give notice of their termination. It is understood that Egyptians committing any crime against British troops will continue to be tried by ordinary Egyptian courts.”

10. Egyptian draft :—

“The Egyptian and British Governments will give reciprocal facilities in their respective aerodromes in the Canal zone to their military aircraft, personnel and stores on passage to and from the said aerodromes.”

British redraft (not agreed with or put to the Egyptians) :—

“His Majesty's Government in Great Britain and Northern Ireland will give all necessary facilities in their airports in the Canal zone to Egyptian military aircraft, personnel and stores on passage to and from Egyptian aerodromes.

“Reciprocally, the Egyptian Government will on notification afford to British military aircraft, personnel and stores on passage to or from stations outside Egypt, landing and other necessary facilities on the routes followed by Imperial Airways, Limited, in connexion with their Indian service via El Arish, their European service via Sollum, Mersa Matruh and Alexandria, or the South African service via the Nile Valley, to which the Egyptian Government agree in principle.”

In regard to other matters :—

(11) The Egyptian Government intend to abolish forthwith the European

Paragraphs on which agreement had been reached.	Paragraphs still under discussion. The latest drafts are given in each case, even though the last British draft may not have been communicated to the Egyptian Delegation.
<i>Egyptian Note—(continued).</i> Bureau of the Public Security Department, but will retain, for five years from the coming into force of the Treaty, a certain European element in their city police which will remain for the same period under the command of British officers. With a view to facilitating the gradual substitution of Egyptian officials for the said European element and thereby securing the harmonious working of the police organisation, the Egyptian Government propose to dispense annually with the services of one-fifth of the number of European police officials. The Egyptian Government intend, however, to employ for the whole period British Police Commandants at the head of such European element.* * The British experts intended to redraft the last sentence in order to make it clear that both the European and Egyptian elements in the city police would be under British police commandants for the whole period. (13) As under article 10 of the present Treaty, Great Britain will be the first country to be represented by an Ambassador in Egypt, British Ambassa-	12. The Egyptian proposal of the 5th May was as follows:— "The Egyptian Government intend to dispense with the services of the Financial and Judicial Advisers at the end of the present financial year." British redraft of paragraph (12) of the Note (not agreed with or put to the Egyptians):— "The Egyptian Government intend to abolish the posts of Financial Adviser to the Egyptian Government and Judicial Adviser to the Ministry of Justice, but will retain the present occupants of these posts as Egyptian officials holding their appointments from the Egyptian Government, for the remaining periods of their existing contracts." Nahas Pasha pressed the Secretary of State to agree to the immediate abolition of these posts on condition that the Egyptian Government paid the salaries of the present Advisers up to the termination of their existing contracts.

Paragraphs on which agreement had been reached.	Paragraphs still under discussion. The latest drafts are given in each case, even though the last British draft may not have been communicated to the Egyptian Delegation.
<i>Egyptian Note—(continued).</i> dors will, during the period of the present Treaty, be considered senior to the diplomatic representatives accredited to the Court of His Majesty the King of Egypt. (14) It is recognised by the High Contracting Parties that there is no ground to provide for the question of minorities in Egypt, considering that, as Egyptians, any question relating to them is the exclusive concern of the Egyptian Government. (NOTE.—This was not discussed with the Egyptians, but there is no reason to suppose that agreement would have been difficult to reach.)	The Egyptians proposed to omit any reference to the engagement of British experts. British draft of paragraph — of the Note not agreed with or put to the Egyptians:— "The Egyptian Government in the exercise of their right to select the foreign experts whose services they require, will naturally, in view of the Treaty of Friendship and Alliance signed to-day, when engaging the services of such experts, as a rule give preference to British subjects possessing the necessary qualifications." This was not discussed with the Egyptians, but there is no reason to suppose that agreement would have been difficult to reach. 16. Egyptian proposal:— "Subject to the provisions of Article 11, it is agreed that in the meantime there shall be no discrimination in the Sudan between British subjects and Egyptian nationals in matters of immigration, property or commerce. Accordingly, there shall be no restriction upon their entrance or immigration into the Sudan, unless the person immigrating or entering into the Sudan is forbidden to do so by his respective Government. "Likewise, their right to own and possess property or to carry commerce in

Paragraphs on which agreement had been reached.	Paragraphs still under discussion. The latest drafts are given in each case, even though the last British draft may not have been communicated to the Egyptian Delegation.
<i>Egyptian Note—(continued).</i> The two Governments further agree that the question of the indebtedness of the Sudan to Egypt shall now be examined with a view to settlement on fair and equitable lines, and that for this purpose a representative of the Treasury of the United Kingdom and a representative of the Egyptian Ministry of Finance should discuss the question as soon as the Treaty comes into force. Moreover, subject to the provisions of article 11 aforesaid, the two Governments are agreed as follows upon the methods by which international conventions are to be made applicable to the Sudan :— The conventions which it will be desired to apply to the Sudan will naturally be conventions of a technical or humanitarian character. In cases where such a convention is signed on behalf of both Egypt and the United Kingdom, and it is desired that the convention should be applied to the Sudan, the British and Egyptian delegates will at a convenient moment make a joint declaration, to be duly	<i>Egyptian proposal—(continued).</i> the Sudan shall be free, according to rules regulating matters of property and commerce in modern legislation." British counter-proposal :— "The two Governments are agreed that there shall be no discrimination in the Sudan between British subjects and Egyptian nationals in matters of commerce and immigration or the possession of property." The Egyptians proposed to omit any reference to the return of an Egyptian battalion. The wording of the British draft was :— "It has further been agreed that, if the Treaty is worked in the same friendly spirit in which it has been negotiated, His Majesty's Government in the United Kingdom will be prepared to examine sympathetically a proposal for the return to the Sudan of an Egyptian battalion simultaneously with the withdrawal of the British forces from Cairo."

Paragraphs on which agreement had been reached.	Paragraphs still under discussion. The latest drafts are given in each case, even though the last British draft may not have been communicated to the Egyptian Delegation.
<i>Egyptian Note—(continued).</i> placed on record, to the effect that their signatures on behalf of Egypt and the United Kingdom respectively are intended, taken together, to cover the Sudan, and (in cases where the convention requires ratification) that, when the ratifications of both the King of Egypt and His Britannic Majesty have been deposited, the convention will become applicable to the Sudan in accordance with its terms. If no such declaration is made, the convention will not become applicable to the Sudan, unless by the method of accession, to which reference is made later. In cases where such a declaration has been made, no special mention would be made of the Sudan in the instruments of ratification. In some cases, where the convention provides for subsequent accession, and it may be convenient that the convention should be applied to the Sudan by this method, accession would be effected by a joint instrument signed on behalf of Egypt and the United Kingdom respectively by two persons duly appointed for the purpose. The method of depositing the instrument of accession would be the subject of agreement in each case between the two Governments. In such cases no question of ratification arises. At international conferences where such conventions are negotiated, the Egyptian and British delegates would naturally keep in touch with a view to any action which they may agree to be desirable in the interests of the Sudan	

BRITISH NOTE.

Sir,

In reply to your note of to-day's date, I have the honour to confirm the record contained in your note of the understandings which have been reached between us with regard to matters arising out of or in connexion with the Treaty which has been designed to-day.

Agreed Text of the Proposed Exchange of Notes in regard to the Reform of the Capitulations.

BRITISH NOTE.

Your Excellency,

WITH regard to the second paragraph of article 4 of the Treaty signed to-day His Majesty's Government in the United Kingdom recognise that the conditions in which the Capitulations are at present applied as regards the power of the Egyptian

Government to legislate for or to impose taxation on foreigners are no longer consistent with modern conditions.

They are prepared to agree that in future any assent which is necessary before Egyptian legislation, including fiscal legislation, is applied to foreigners shall be given by the General Assembly of the Mixed Tribunals, except in the case of legislation relating to the constitution or jurisdiction of the Mixed Tribunals themselves, which should not come into force until it has been approved by the Powers. The competence of the General Assembly of the Mixed Tribunals should consist in satisfying itself that the legislation in question is not inconsistent with the principles generally adopted in modern legislation, which is applicable to foreigners, and, with particular relation to legislation of a fiscal character, that it does not inequitably discriminate against foreigners, including foreign companies.

The transfer to the Mixed Tribunals of the jurisdiction now exercised by the Consular Courts, which will, of course, be subject to the provisions of paragraph 8* of the Egyptian note of to-day's date, will necessitate the revision of the existing laws relating to the organisation and jurisdiction of the Mixed Tribunals, including the preparation and promulgation of a new Code of Criminal Procedure. For these purposes His Majesty's Government in the United Kingdom would be prepared to accept as a basis the principles which resulted from the discussions which took place on this subject in 1920.

It may be difficult for some Powers to agree to the transfer to the Mixed Tribunals of all suits relating to the "statut personnel" of their nationals. Transfer in the case of these questions would be facultative. Jurisdiction in such matters should remain with the consular authorities unless an agreement is made between the Egyptian Government and the foreign Government concerned for its transfer to the Mixed Tribunals.

There are certain matters as to which it will be necessary for agreement to be reached between the Egyptian Government and His Majesty's Government in the United Kingdom, but it is unnecessary to do more at the moment than mention these subjects.

The first is the definition of the word "foreigner" for the purposes of the proposed extension of the jurisdiction of the Mixed Tribunals.

The second is the increase in the personnel of the Mixed Tribunals and Mixed Parquet which will be necessitated by the proposed extension of their jurisdiction.

The third is the procedure in the case of pardons or remissions of sentences imposed on foreigners, and also in connexion with the execution of capital sentences imposed on foreigners.

EGYPTIAN NOTE.

Sir,

I have the honour to acknowledge the receipt of your note of to-day's date in which you informed me of the general lines upon which His Majesty's Government in the United Kingdom would be prepared to support the efforts of the Egyptian Government to conclude arrangements with the Powers for the reform of the capitulatory régime.

I am happy to state that the Egyptian Government are in general agreement with His Majesty's Government in the United Kingdom as to the lines on which the reform of the capitulatory system should proceed.

I wish, however, to make it clear that the willingness of the Egyptian Government to conclude arrangements on these lines for the reform of the Capitulatory régime is entirely without prejudice to their desire to secure the eventual abolition of that régime.

As regards the revision of the existing laws relating to the organisation and jurisdiction of the Mixed Tribunals and the preparation of a new Code of Criminal Procedure the Egyptian Government recognise that they shall not diverge from the principles generally adopted by modern legislation which is applicable to foreigners.

*Egyptian Department,
Foreign Office, May 16, 1930.*

[J 1996/4/16]

No. 87.

Air Ministry to Foreign Office.—(Received June 23.)

(Secret.)

Sir,

Air Ministry, June 20, 1930.

I AM commanded by the Air Council to refer to the recent Anglo-Egyptian negotiations, and in particular to the proof of a print dated the 16th May, 1930, which records the texts of paragraphs (a) on which agreement had been reached when the negotiations were broken off, and (b) of those which were still under discussion and which in some cases had not been communicated to the Egyptian delegation.

2. As regards (b), the Air Council desire to put forward for Mr. Secretary Henderson's consideration the following amendments:—

(i) *Presence of British Air Forces in Egypt.*—Paragraph 4, British re-draft (not submitted to Egyptian representatives).

It is suggested that the wording "... British air forces shall not exceed 400 pilots together with the necessary number of mechanics" should be amended to read "400 pilots together with the necessary personnel for administrative and technical duties." The point is not one of great importance, but as the establishment of air force personnel would not be fully defined under the headings of "pilots" and "mechanics," some wider term of definition is desirable and would be a protection against possible future Egyptian objection that the strict terms of the agreement as to the composition of the air forces were not being observed.

(ii) *Facilities for Service Aircraft in Transit.*—Paragraph 10, British re-draft (not put to the Egyptians).

The Air Council naturally attach great importance to the explicit and permanent recognition by the Egyptian Government of the right of use of such "air corridors" over Egyptian territory as will be necessary to secure air communication between the stations on the Canal Zone and (a) the Mediterranean and Western Europe; (b) Iraq and the Persian Gulf via Palestine and Transjordan; (c) British East Africa and the Cape; (d) Aden.

The present wording suggests that the definition and use of these routes for British service aircraft is dependent upon their exploitation by Imperial Airways, and difficulties might arise if for any reason any of the three specified routes ceased to be operated by Imperial Airways. The Air Council therefore suggest that the second paragraph of the draft article should be amended to read:—

"Reciprocally the Egyptian Government will (subject to notification of an intended flight being given on each occasion) afford to British military aircraft, personnel and stores on passage from locations specified in article 9 of the treaty to stations outside Egypt, and *vice versa*, landing and other necessary facilities for the purpose of such passage. The routes along which such facilities will be afforded will be:—

- "(i) By way of Heliopolis, Alexandria, Mersa Matruh and Sollum;
- "(ii) By way of El Arish;
- "(iii) By way of Heliopolis, Assiout and Assouan;
- "(iv) By way of Suez."

This wording is put forward on the assumption that Imperial Airways will have come to some agreement with the Egyptian Government before negotiations for an Anglo-Egyptian treaty are resumed, and that the reference in the present draft to the Egyptian Government's agreement in principle to the establishment of the Imperial Airways service will no longer be required.

I am lastly to explain that the Air Council do not wish to press for the insertion of the above amendments in the text of the print referred to in the first paragraph of this letter—if that course is inconvenient—provided that it is understood that their freedom to bring these amendments forward when negotiations are resumed is not thereby prejudiced.

I am, &c.
J. A. WEBSTER.

[J 1996/4/16]

No. 88.

Foreign Office to Air Ministry.

Sir,

Foreign Office, June 26, 1930.

I AM directed by Mr. Secretary Henderson to acknowledge the receipt of your letter of the 20th June, suggesting certain amendments in the proof of a printed memorandum relative to the recent Anglo-Egyptian negotiations, dated the 16th May, 1930.

2. In reply, I am to inform you that note has been taken of these amendments, and that they will be borne in mind when negotiations are resumed.

I am, &c.

JOHN MURRAY.